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# MASSACHUSETTS' REQUEST FOR DISASTER FUNDS FROM THE SBA

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Massachusetts' Request for Disaster...

## HEARING BEFORE THE SUBCOMMITTEE ON GOVERNMENT PROGRAMS OF THE COMMITTEE ON SMALL BUSINESS HOUSE OF REPRESENTATIVES ONE HUNDRED FOURTH CONGRESS SECOND SESSION

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WASHINGTON, DC, JULY 10, 1996

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Printed for the use of the Committee on Small Business

**Serial No. 104-84**



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## MASSACHUSETTS' REQUEST FOR DISASTER FUNDS FROM THE SBA

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WEDNESDAY, JULY 10, 1996

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON GOVERNMENT PROGRAMS,  
COMMITTEE ON SMALL BUSINESS,  
*Washington, DC.*

The Subcommittee met, pursuant to notice, at 10:50 a.m., in room 2359, Rayburn House Office Building, Hon. Peter G. Torkildsen (Chairman of the Subcommittee) presiding.

Chairman TORKILDSEN. Good morning. It is a pleasure as chair of the Small Business Subcommittee on Government Programs to welcome our witnesses and guests today.

I apologize for the lateness of the start of this hearing. The Prime Minister of Israel just concluded his remarks to a joint session of Congress, and, as I believe everyone was informed, that was the reason for the delay.

The purpose of this hearing is to focus on the Commonwealth of Massachusetts's request for disaster assistance from the U.S. Small Business Administration. The request was made on behalf of the fishermen of Essex, Bristol, and Barnstable Counties, all who have suffered severe economic losses because of the sudden collapse of cod, yellowtail flounder, and haddock fisheries in their region.

Knowing that the vast majority of these families and processors are small business owners, disaster assistance loans for these families and processors in the Commonwealth under section 7(b)(2) of the Small Business Act became a logical way to help.

The current plight of the fisheries in the Commonwealth can be characterized as a natural disaster under section 3(k) of the Small Business Act, which includes "ocean conditions resulting in the closing of customary fishing waters."

While the definition has meant "sudden" events, the Federal Government's actions precipitated this sudden closure after years of pronouncements that the situation was under control and, therefore, the request was justified.

On April 30, 1996, Governor Weld sent a formal request to the SBA certifying that at least five small businesses in each county listed had suffered substantial economic injury as a direct result of the sudden collapse of the fisheries. He further certified that the degree of economic injury was so severe that financial assistance at reasonable rates and terms was not otherwise available, thereby creating the necessity for Federal involvement in the form of subsidized loans.

On June 3, 1996, the Governor received correspondence from the Associate Administrator for Disaster Assistance, Mr. Bernard Kulik, stating that the request for disaster assistance had been denied. Mr. Kulik admitted that the Massachusetts fishing industry was hurting as a result of the closure of the usual fishing grounds. Yet the letter went on to state that overfishing is not a "sudden event" as defined under the statute and the specific event cited as the basis for the request, Federal or governmental action, was repealed several years earlier, therefore not justifying the request for assistance.

The Governor and I share a deep concern for the well-being of the fishing communities that are so seriously affected by this action. It seems ludicrous that the same Federal Government bureaucracy that contributed to this dire situation would now decline to offer a helping hand to those harmed.

In an attempt to remedy the situation, during the Small Business Committee's markup this afternoon, I plan to offer an amendment that will make an addition to the definition of "disaster." My amendment will propose that we include Federal or governmental action included in the definition of that law.

The Subcommittee is holding this hearing today to review the Governor's request and to hear from the SBA on their ruling. We look forward to hearing from our witnesses today.

As soon as the Ranking Minority Member joins us for the hearing, I will yield to him for an opening statement, if he chooses to make one.

Now we will proceed directly to our first panel of witnesses. They are Bernard Kulik, Associate Administrator for Disaster Assistance, from the U.S. Small Business Administration; Ms. Trudy Cox, Environmental Affairs Secretary for the Commonwealth of Massachusetts; State Senator Bruce Tarr; Mayor Bruce Tobey from the city of Gloucester; and Cristine Heanue, Disaster Recovery Manager for Massachusetts Emergency Management Agency, or MEMA, as it is known, located in Framingham, Mass.

I would like to ask Mr. Kulik to begin with his testimony. For all witnesses, if you could summarize your testimony, your written statement will appear in its entirety in the record. If you can summarize to within 5 minutes, that will allow time for questions and also allow comment from other witnesses who bring a particular expertise to this hearing.

Mr. Kulik.

#### **TESTIMONY OF BERNARD KULIK, ASSOCIATE ADMINISTRATOR FOR DISASTER ASSISTANCE, U.S. SMALL BUSINESS ADMINISTRATION**

Mr. KULIK. Thank you, Mr. Chairman. I certainly will try to keep within the time limit.

As you know, the request was made from the Governor by letter dated April 30, which was received by SBA on May 20, 1996. Administrator Lader declined to issue the declaration, and Governor Weld was so notified by letter dated June 3.

SBA disaster assistance, which is in the form of long-term low interest loans, are only available upon the declaration of a major disaster by the President pursuant to the Stafford Act or the dec-

laration of a disaster by the Administrator pursuant to the Small Business Act.

In the latter context, the Small Business Act contains a very strict and definite definition in section 3(k), which is in the record, and I will not repeat it here. The legislative history of this provision indicates, with respect particularly to the fishing industry, that it was intended to cover natural occurrences such as the El Nino tide and that the phrase "ocean conditions resulting in the closure of customary fishing waters" was intended to cover such things as toxic algae blooms, commonly known as red tide or brown tide.

In the Massachusetts instance, the disaster request was based on the issuance of emergency rules by the Secretary of Commerce as recommended by the New England Fishery Management Council through the National Marine Fisheries Service.

The effect of these rules, issued and amended in January and December of 1994, April 1995, and May 1996, was to close the customary fishing areas of a substantial part of the fishing fleet in Massachusetts. The cause for these actions was a serious depletion of the groundfish stocks that resulted from overfishing for a number of years.

This was not an unexpected or sudden occurrence. Overfishing had gone on for some time, and the resulting consequences, problem, and cure were known throughout that entire period. Record low catches had been reported every year since at least 1991. The Department of Commerce informed us that the National Marine Fisheries Service and the New England Fishery Management Council, which included a representative of the Commonwealth of Massachusetts, have been considering appropriate action to eliminate the overfished condition of groundfish stocks—that is, tighter restrictions on the fishing efforts in question—for at least the past 10 years.

As you stated, Mr. Chairman, there is no doubt that the fishing industry in Massachusetts was hurt by the closure of their usual fishing grounds. However, the economic suffering is not the consequence of a sudden event, and is therefore not a disaster within the statutory definition.

Again, as you mentioned, in past years the statute had contained two specific provisions for nonphysical disasters that would have covered this particular occurrence. The first of these provided for economic injury assistance in the event of what was called "economic dislocation." This provision was repealed by Congress in 1981.

The second provided for economic injury assistance resulting for injury caused by Federal Government action. This provision was repealed by Congress in 1986. The latter provision, definitely, and perhaps the former as well, clearly would have covered the present situation.

Rather than repeat the rest of my testimony, Mr. Chairman, since it will be considered part of the record, I would be happy to answer any questions you might have.

[Mr. Kulik's statement may be found in the appendix.]

Chairman TORKILDSEN. Thank you, Mr. Kulik. We will hear testimony from all witnesses, and then open the panel for questions.

Now we would like to hear from Secretary Trudy Coxe.

**TESTIMONY OF TRUDY COXE, ENVIRONMENTAL AFFAIRS SECRETARY, EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS, COMMONWEALTH OF MASSACHUSETTS, ACCOMPANIED BY JOHN PHILLIPS, COMMISSIONER, DEPARTMENT OF FISHERIES, WILDLIFE AND ENVIRONMENTAL ENFORCEMENT; AND PAUL SISSEN, MASSACHUSETTS OFFICE OF BUSINESS DEVELOPMENT**

Ms. COXE. Thank you very much, Mr. Chairman.

I am here on behalf of Governor Weld and have a statement that I am going to read to you from him. We want to first introduce Paul Sisson, who is from the Massachusetts Office of Business Development. He is the fishing industry coordinator and a real expert on fishing issues in our State.

The Governor joins me in thanking the Subcommittee on Government Programs and, in particular, you, for holding this hearing. We are very grateful for your help and leadership on an issue that others in Washington seem to be ignoring. Your attention and assistance, we hope, will turn this attitude of indifference around, and we want you to know up front that we enthusiastically support the amendment you are proposing today.

In Massachusetts we continue to be disappointed by the attitude of Federal officials who continue to misunderstand the plight of small fishing businesses in their quest for little more than some financial help to get them through these very hard times.

On March 29, 1995, the Governor requested a major disaster declaration from FEMA due to the decline of the Massachusetts fisheries. That request for a major disaster declaration was denied. He then appealed to FEMA to reconsider. That appeal was denied. In January, he wrote requesting President Clinton to review the FEMA denials, and to date we have had no response.

This past spring, Massachusetts turned to a different arm of the Federal Government, the Small Business Administration, for disaster assistance. This request was summarily denied by Mr. Kulik, whom you have just heard from.

In the meantime, Mr. Chairman, the fisheries and the small fishing businesses of our State are hurting. In fact, the National Marine Fisheries Service has reported that 1994 landings in Massachusetts saw an 18 percent drop, the highest of any State in New England. For the first time in our history, the Commonwealth lost its position as the top revenue-producing State in the region.

The severity and magnitude of the Commonwealth's fishing crisis is such that an effective response is beyond the capabilities of one State alone, and supplemental Federal assistance is needed.

The Federal Boat Buyback Program is an example of the need faced by the fishing industry in our State. Nine of the 13 vessels purchased by the Federal Government recently were Massachusetts boats employing Massachusetts fishermen. While it is true that the Federal Fisheries Relief Program provided Massachusetts with \$6.5 million, the fact is that these funds are nearly exhausted. I think both of these illustrations point out how important the need in our State really is.

That is not to say that our State has not done a lot. The Weld-Cellucci administration has gone to extraordinary lengths to support our fishing industry. We have supported \$5 million in funding for a vessel retrofitting loan fund. We are working to assist hundreds of individuals through retraining programs and crisis counseling at three family assistance centers. We continue to promote use of nontraditional species through new State marketing plans. We are developing improved fishing gear through conservation engineering that will enable fishermen to fish for other species without catching groundfish in need of conservation.

But more is needed. What the SBA is uniquely able to provide is an emergency working capital loan program to sustain fishermen through this difficult period, and that is why we come today to seek your help.

The severe economic loss caused by the collapse of groundfish stocks is a natural disaster. In all of its submissions to FEMA and SBA, we have provided compelling scientific arguments describing the natural disaster aspects of the Commonwealth's fishing crisis. However, both SBA and FEMA both have stated that our fishing situation is not a disaster, and both have failed to be open minded about all of the causes that are behind the crisis that we are now confronted with.

Our request for a natural disaster declaration and assistance by FEMA and SBA acknowledges that fishing mortality is important and must be controlled. That is why Massachusetts has played a lead role in helping to develop new Federal fishing regulations to rebuild cod and haddock and yellowtail flounder.

As an example, the New England Fishery Management Council, of which Massachusetts is a leading participant, hopes to rebuild groundfish stocks by further tightening regulations. These are known as Amendment 7, as you know. Despite their controversial nature, we have firmly stood behind these new regulations going into place.

What is needed now, however, is an acknowledgment that natural factors, too, have played a major role in the collapse and will seriously hinder fisheries' recovery, even if fishing mortality is reduced to zero.

We have demonstrated that the potential for critical improved recruitment, defined as good production of young fish, or year-classes, on which the future of the fisheries depend, is low due to natural factors, and these factors have created a disaster for Massachusetts' groundfish fishing industry.

The SBA denial is particularly puzzling in light of the fact that the Commerce Secretary in 1995, as part of declaring a fishery resource disaster, declared "the damaged condition of fishery resources beyond the control of individual fishermen" and recognized "the disappearance of periodic strong year-classes that have long sustained a healthy commercial fishery."

Even the December denial of FEMA assistance by Director Jamie Witt recognized that "a combination of natural factors," including predation, competition, and general warming trends in water temperatures, "aggravated" the decline of groundfish stocks in the Georges Bank and the Gulf of Maine.

There is an issue of consistency as well in the denials of Massachusetts's requests. The Federal Government was willing in 1994 to declare a natural disaster on the West Coast based on El Nino. Our point is that if the logic for a natural disaster declaration is appropriate for the West Coast and salmon, then it should be just as appropriate for New England, and especially Massachusetts and our groundfish.

If an El Nino can be called a disaster, then so should the ocean conditions and other natural factors affecting groundfish abundance off Massachusetts that have created the fishery resource disaster we are now confronted with.

In conclusion, we continue to take every step available to assist the Commonwealth's groundfish fishing industry. I hope you will recognize our efforts and support us by agreeing to help convince the SBA that it should reconsider its decision.

I thank you on behalf of Governor Weld and Lieutenant Governor Cellucci for your great leadership on this issue and for giving us the opportunity to make our case today.

[Mr. Coxe's statement may be found in the appendix.]

Chairman TORKILDSEN. Thank you, Secretary Coxe.

I would like to call now on someone who has been a long time friend of the fishing families. He represents all of Cape Ann and many other communities north of Boston, State Senator Bruce Tarr.

#### **TESTIMONY OF HON. BRUCE TARR, MEMBER, STATE SENATE, BOSTON, MASSACHUSETTS**

Mr. TARR. Good morning. Thank you, Mr. Chairman.

Mr. Chairman, let me first say how grateful I am for the opportunity to come before you to testify today, and also for the leadership position you are taking not only for the fishing families of the Commonwealth, but for all of our small businesses. I know all of us in Massachusetts are extremely gratified to see your work here.

I also want to before the Subcommittee this morning commend the work of Governor Weld and Lieutenant Governor Cellucci for fighting every step of the way for the Massachusetts fishing industry, and for trying to appeal to the Federal Government for the relief that is deserved for the port we serve, the oldest fishing port in the United States of America.

Mr. Chairman, it is interesting to note that the people we represent in this port are among the hardest-working people in the country. I would defy any member of the Subcommittee or any person in the Congress to find a vocation where more than 10,000 people have died doing what they love.

Mr. Chairman, as much as those people are survivors, as much as they know how to deal with difficult situations, they are confronted today with sudden changes on two fronts that they cannot survive without additional assistance.

The first is that there are climatological changes taking place, and indeed there are environmental changes taking place. Much of what confuses and confounds the Federal regulators, in fact, is a lack of understanding of what those conditions are. But we do know there are climatological changes which are analogous to El Nino, they are analogous to algal blooms, they are analogous to

many of the other causes for which relief has been granted. In fact, Mr. Chairman, I would suggest to you the reason the grounds are closed on Georges Bank and on in Areas 1 and 2 is precisely because those are spawning grounds and they are required to be closed for recruitment, indicating that there is a substandard environment presently for that spawning to take place and that recruitment to take place.

In addition, Mr. Chairman, it has been stated here this morning that overfishing has long been the cause, and that there would be a cure that could have been implemented earlier. Well, Mr. Chairman, you can't have it both ways. Federal regulators have been struggling for a long time to try to find out what the cause is. Had they known the cause, they would have been able to implement regulations sooner which would have been able to divert fishing effort and been able to restore the stocks.

If, on the other hand, Mr. Chairman, that wasn't the case, and they did know, then the cause of this disaster is in fact the Federal Government, and that needs to be recognized here today.

In addition, Mr. Chairman, I think we have had a lot of testimony both this morning and otherwise as to whether or not this was a sudden set of changes. I would suggest to you that going from a 50 percent reduction under Amendment 5 without proper SBA participation, and going to an 80 percent reduction and effort within 24 months without a final Regulatory Flexibility Act statement having been prepared by the Small Business Administration and without the proper consultation by the SBA, that we do in fact have a sudden economic disaster that is confronting the fishermen and the fishing families of our community, all of them, Mr. Chairman, being small businesses, from the large dragger which employs 4 to 10 people directly, to the ice company, to the fuel company, to the grocer.

There is a specialized and efficient network and an infrastructure of fish harvesters who rely on the industry for their livelihood, and it is not only their livelihood, it is the character and spirit of our community.

Mr. Chairman, we know this is a disaster and it is a sudden disaster. That is why the Commonwealth of Massachusetts has stepped up to the plate in the Seaport Bond Bill. I have provided the Subcommittee with a summary of the appropriations in that bill to show you how seriously the legislature and Governor and Lieutenant Governor are in providing \$14 million in various types of assistance.

In addition, Mr. Chairman, I am going to provide the Subcommittee with a copy of a report from the Commission for Fisheries Research and Recovery that has been chaired by myself and Representative Verga indicating clearly that we know the way out of this crisis. We know the way because we have entrepreneurs like Larry Ciulla who will testify before you today about an electronic fish auction that is going to be supported by Massachusetts; we know the way because we have entrepreneurs like Corrado Buccheri, who are trying to generate a protein recovery plan that will help us to diversify and support fishermen for generations to come.

We know the way, Mr. Chairman, because we have other entrepreneurs here today that are going to talk to you about the Gloucester Herring Corporation and our way of helping balance the trade deficit by exporting herring.

We need your help, Mr. Chairman, and we are supportive of your efforts and supportive of the legislative change you will submit today. We are survivors, and we need your help to survive. We can do it, and we will do it when the Subcommittee does the right thing and intervenes on our behalf.

I appreciate the opportunity to testify here today.

[Mr. Tarr's statement may be found in the appendix.]

Chairman TORKILDSEN. Thank you very much, Senator. Also I will note for the record Representative Verga's role as well. He could not be here to testify in person. He has been a strong advocate as well.

Mr. TARR. I have a written statement I will submit to the Subcommittee from Representative Verga as well, who could not be with us today.

Chairman TORKILDSEN. Without objection, it will be part of the record.

[Mr. Tarr's statement may be found in the appendix.]

Chairman TORKILDSEN. Now it is now an honor to introduce the mayor of Gloucester, someone whose has long been an advocate for making sure this transition period is as painless as possible, if that is even possible at all. Not only has he been a tireless advocate for Federal and State assistance, but he has also taken the initiative for the city of Gloucester itself, and seeing the people and economy through this period of crisis, and that is Mayor Bruce Tobey.

#### **TESTIMONY OF HON. BRUCE TOBEY, MAYOR, GLOUCESTER, MASSACHUSETTS**

Mr. TOBEY. Thank you, Mr. Chairman.

It is a delight for two reasons to be down here: First of all, to talk about something other than the reauthorization of the Clean Water Act; but, second, for a chance to be heard—

Chairman TORKILDSEN. We will get to that in another hearing.

Mr. TOBEY. I will be back—but particularly today for the chance to be heard on the effectiveness of the fisheries assistance we have received from the Small Business Administration.

Although the economy of my city has diversified dramatically in recent years, still some 450 Gloucester breadwinners look to our fishing industry to earn livelihoods. When we think with our heads, that means Gloucester and our fishermen have taken very seriously Federal promises to help the fishing industry in the aftermath of stringent Federal rulemaking.

The same is true though when we think with our hearts. The character and heritage of the historic port of Gloucester are historically linked with our fishing industry.

One of the many promises that we received came from the SBA. With the promulgation of Amendment 5 in 1994, what did the SBA say? They and their money were going to be there for Gloucester's fisheries. But have they put a dime on the table? No.

Now, on the one hand, we need to face facts. The Gloucester fleet is generally overcapitalized as it is, and too many of our boats are

already overburdened with debt. In those cases, more debt is not the answer. But even where more debt is possible, SBA's existing programs, while well-intentioned, have been of little use thus far. No matter how much our fishermen have wrestled with SBA loan programs to make them part or all of the solution, it has been a vain effort.

It is against this background that I welcome Governor Weld's initiative in seeking an economic injury disaster declaration from SBA.

The Governor's request captured two realities that I would like to emphasize. First, fishing boats are hurting in the aftermath of Amendments 5 and 7. Please remember, each fishing boat is a small business.

Second, run-of-the-mill SBA Programs were not doing the trick. Something more was needed. SBA's response? A denial of the Governor's request based on narrow legalistic interpretations of statutory definitions.

I feel, as mayor, sometimes I am in the business of sales. Try to sell this explanation to fishermen struggling to hold on. "There is no doubt that the fishing industry in Massachusetts is hurting as a result of the closure of their usual fishing grounds. However, that event is not a disaster within the statutory definition." Mr. Chairman, they don't buy it, I don't buy it, and neither should you.

I am a lawyer by training and trade, and I have practiced in the public sector, so I know at least one thing: It is always easy to find a way to say no. But that is what SBA did. Once again, the SBA was unable to find a way to do what needs to be done, give relief to fishermen living with economic disaster due to Federal regulations.

Faced with this dilemma, what do I ask of you? First, that you prevail upon the SBA to reverse itself and provide the subsidized loan assistance that can keep some of our struggling fishermen afloat. I ask that as mayor of a city that has already done its share and will do more.

In Gloucester we have run Economic Development Administration grants through local revolving funds set up specifically to leverage funding for a number of valuable shore-side and vessel investment opportunities. We have even put the city's own money on the line, using funds we borrowed, secured by HUD Section 108 loan guarantees, to provide more fisheries financial assistance.

What then is my second request? If the SBA will not reverse itself, then I ask you, very simply, take this program away from them and give it and the money that funds it to a Federal Agency that will give help to our fishermen. The disaster SBA will not acknowledge is too far along. We have no more time for the bureaucratically faint of heart.

I hope these observations help you in the work you are in the midst of. We appreciate that work in Gloucester and are particularly heartened by the news of the amendment you are offering now through the markup process. More power to you with it.

Always bear in mind, the city of Gloucester stands ready to work with you in your efforts to restore the health and economic vitality of our domestic fisheries.

Thank you again for this chance to be heard, sir.

[Mr. Tobey's statement may be found in the appendix.]

Chairman TORKILDSEN. Thank you, Mayor Tobey, for your very succinct testimony, very much to the point. I appreciate it.

Ms. Heanue from MEMA, your testimony, please.

**TESTIMONY OF CRISTINE HEANUE, DISASTER RECOVERY  
MANAGER, MASSACHUSETTS EMERGENCY MANAGEMENT  
AGENCY, FRAMINGHAM, MASSACHUSETTS**

Ms. HEANUE. Good morning, Mr. Chairman. I, too, thank you for the invitation and opportunity to testify before you today.

I am here representing the Massachusetts Emergency Management Agency to seek your Subcommittee's support for the Commonwealth's request to the Small Business Administration for an Economic Injury Disaster Declaration on behalf Massachusetts fishermen in the counties of Essex, Bristol, and Barnstable.

The Massachusetts Emergency Management Agency conducted a survey of businesses in the above-mentioned counties, the results of which concluded that numerous businesses, particularly the fishing industry, suffered severe economic losses and thus require Federal financial assistance.

Often disaster victims turn to the Federal Government seeking grants to assist in their recovery efforts. The fishing communities of Essex, Bristol, and Barnstable Counties seek only loans provided by the Small Business Administration.

To address the needs of the Massachusetts ground fishermen, the Commonwealth of Massachusetts first sought Federal assistance through the Federal Emergency Management Agency in a request dated March 29, 1995. Said request sought assistance in the form of a major disaster declaration for the impacted counties. The request was denied by FEMA, appealed by the Governor, and denied yet again.

It is interesting to note, however, that in the letter to Governor Weld dated December 8, 1995, the FEMA Director James Lee Witt stated that, "The information provided in your appeal supported the logic that a combination of natural factors, including predation, competition, and general warming trend in water temperature aggregated the decline of groundfish stocks." He went on to say, "We do not dispute that these natural factors have aggravated poor fishing conditions."

On April 30, 1996, on behalf of the Massachusetts fishermen, the Commonwealth again requested assistance, this time from the Small Business Administration; specifically, an Economic Injury Disaster Declaration. Said request was denied, in part based on the fact that, according to SBA Administrator Philip Lader, our request did not support this particular situation being characterized a disaster within the statutory definition of such.

In our opinion, ample supporting information has previously been provided to validate the position that this disaster is, in fact, a natural disaster. We have similarly concluded that this disaster is, in fact, a sudden natural disaster.

Clearly, tornadoes or earthquakes are all deemed to be sudden disasters, but so too are hurricanes and floods. They are consistently referred to as sudden events when, in fact, they take weeks and even months to develop. A hurricane may spend weeks becom-

ing organized in the South Atlantic. Floods are often a combination of heavy rainfall and melting snow.

Similarly, the fishing situation has developed overtime. The effect of warming water, depletion by predators, and other natural events is, in fact, no different from the developmental stages of a hurricane or a flood. After monitoring the development of a hurricane, it makes landfall. After watching the rivers rise, a flood occurs. After watching the gradual fishing situation progress, the fishing grounds were suddenly closed and other restrictions imposed just as sudden as the landfall of a hurricane or flood.

The Massachusetts ground fishing industry has unmet emergency needs that require financial assistance from the Federal Government. The Commonwealth of Massachusetts has clearly recognized the need for the fishing industry to diversify and has committed untold resources to said effort: Vessel refitting, loan programs, crisis counseling, retraining programs, and the like.

This is not enough. The fishermen need your help, and the SBA assistance would provide emergency working capital, enabling the fishermen the opportunity to transition into new markets and mitigate against future losses.

The needs of the fishermen identified to date will only grow if left untreated. We must take steps today to mitigate against such and support the diversification efforts currently under way.

In conclusion, we must acknowledge that the disaster now confronting the fishermen in Massachusetts is both natural and sudden. I urge this Subcommittee to intervene on behalf of the fishermen and request that SBA reconsider its position and provide loans to these disaster victims.

I thank you, Mr. Chairman, for the opportunity to share our concerns.

[Mr. Heanue's statement may be found in the appendix.]

Chairman TORKILDSEN. Thank you, Ms. Heanue.

At this time I would like to ask Congressman Jesse Jackson, Junior, who has just joined us, would you like to make an opening statement?

Mr. JACKSON. Let me thank you, Mr. Chairman, for the opportunity to address the issue of application of Small Business Administration disaster relief assistance.

Since 1953, SBA's disaster loans have provided dramatic assistance in the form of direct loans to people in need. After California's Northridge earthquake, the SBA approved over 125,000 loans totaling over \$4.1 billion. In its 43 years, 1,274,000 loans for more than \$22.4 billion have helped Americans recover from hurricanes, floods, earthquakes, and other disasters.

Mr. Chairman, I certainly know how devastating economic conditions can hurt a region's ability to be self-sufficient. The Southside of Chicago and the south suburbs have seen more than their fair share of missed economic opportunities.

I know that later today the full Small Business Committee will mark up H.R. 3719, which would remove any cap on the interest rates on SBA disaster relief loans. Thus, even these direct loans will become more costly for disaster victims. So, it is appropriate that we take time to discuss what forms of coordinated assistance are available or needed to help communities as they try to recover.

Mr. Chairman, I might add, if I may take a point of personal privilege, I am a fisherman, and why the SBA would deny these loans to the fishermen of Massachusetts has certainly challenged my interest in this particular hearing.

I certainly look forward to working with you in whatever it is we can do to bring about the necessary economic relief that the fishermen certainly need.

I would also ask, Mr. Chairman, that the remarks of my distinguished colleague, the Honorable Barney Frank, also be entered into the record.

Chairman TORKILDSEN. Without objection, so ordered.

[Mr. Frank's statement may be found in the appendix.]

Chairman TORKILDSEN. I thank the gentleman from Illinois for his insightful comments and look forward to working with him for a solution. I concur with his statement on questioning how the SBA reached its decision in this case.

I would like to start off questioning with Mr. Kulik, and let's go back to the Governor's first request. We have a case where, out in the Pacific, we have a storm known generally as El Nino. Clearly, it is a condition that increases the water temperature. No one doubts that salmon stocks in the Pacific Northwest have been affected by substantial fishing. No one has ever doubted that.

But El Nino and the warming water conditions seem to be enough to give the authority to grant loans for, if you will, a natural cause, even though the natural cause was not the only cause for depletion of the salmon stock.

On the East Keys we clearly had evidence of warming ocean currents. We don't have a folksy name for it yet. Perhaps we will come up with one so people can readily identify it. But there are no doubt natural factors contributing to these low stock classes and, because of that, the very, very slow recovery of these fishing stocks, even though there have been enormously painful requirements forced on fishing families through Amendments 5 and 7.

What was the rationale for saying that if water warms in the Pacific it is part of a natural disaster, but if water warms in the Atlantic, you are on your own? What is the rationale for that decision?

Mr. KULIK. Mr. Chairman, as I recall, El Nino is a specific current that moves its location from one place to another rather than a gradual warming.

I would also add, however, that El Nino is specifically covered in the legislative history of section 3(k) of the Small Business Act, and, once again, the specific provisions that would have covered this type of disaster in the past—the economic dislocation provision, and the Government action provision—were repealed by Congress.

I would also add, sir, in the information that was supplied to us in support of the Governor's request, the warming trend was not a matter of a current moving from here to here but was a matter of gradual warming that took place over a long number of years.

Chairman TORKILDSEN. Well, I think that the statement provided by the then Commerce Secretary mentioning the disability of strong year-classes would indicate that it was not over a long period of time. I think if you look at the year-classes, that you have

seen a precipitous drop in recent years. It has not been over many years. I think that if it had been, perhaps the Federal Government—and this is not SBA's particular bailiwick, but if it had been, perhaps the Federal Government would have stepped in sooner and had a better grasp of what was happening. But clearly, that is a much more recent turn of events.

I would like to just for the record let people know that this is not a case of people on Cape Ann or New Bedford or any community saying to its Federal Government that the burden is entirely theirs.

I would like to ask Mayor Tobey and Senator Tarr and Secretary Coxe on behalf of the Governor to talk briefly about what the State and city have been doing to help out. Clearly, this is not a case where you have said the Federal Government is the entire saviour of this situation, but you have done a lot on the State and local level as well.

Mayor Tobey, if you could start. For the record, let us know some of the initiatives you have led. There have been several in Gloucester to help out, I know.

Mr. TOBEY. On the one hand, the answer is none, because I don't think the city has done anything alone. I think it has been really reflective of the situation and the severity, that what we have seen happening—and really, every initiative is a joint venture between the State and/or the city and other agencies of the Federal Government, a well as private entrepreneurs willing to put it on the line.

Some examples: The redevelopment of the Gloucester State fish pier, a property owned by the Commonwealth and managed by the Massachusetts Development Finance Authority; we have helped as a city loan them bridge monies for the reconstruction of that pier.

We have worked collaboratively from the point of view of marketing and financing to help site the new facilities that are going to be on that pier to lead Gloucester forward into a new century of fisheries activity.

We are working with MDFA, landing on one whole side of the pier a very substantial lobster operation, recognizing the extreme value of that catch to the port of Gloucester and the Commonwealth of Massachusetts.

We have worked very hard, again, in joint venture, moving forward with the Gloucester Herring Corporation, which others will speak to, which recognizes that we have a very substantial biomass of herring off the coast of Massachusetts, with a very strong need and market for that fish overseas.

We have seen private sector folk come together in an unprecedented way to put together the money to get that company up and running: Processors putting seven-figure investments of their money on the line, mortgaging properties they have never before used to secure debt, because they have faith we can move past this. On and on it goes.

Why don't I save a few for the secretary and for Senator Tarr. But the key here is collaborative effort. It really gives tremendous cause for hope. If only, if only, the monies that are sometimes needed as debt to help finance these operations can be put on the table. That is why SBA has a role here.

Chairman TORKILDSEN. Thank you.

Senator Tarr?

Mr. TARR. Thank you, Mr. Chairman.

I think the comments of the mayor are very illustrative themselves of the fact we are indeed facing a crisis. Those types of crises bring people together. They have brought the State together with the various cities. I would echo not only the city of Gloucester, but the city of New Bedford has been active in trying to redevelop and revitalize its fishing industry.

Along those lines, Massachusetts has gone a long way toward funding through the Industrial Services Program retraining and counseling centers in each of the major ports, again, Mr. Chairman, testifying to the fact that this is a crisis. We don't need counseling for things that are not crises.

The fact is, Mr. Chairman, we have engaged in a very aggressive marketing program for underutilized species, which the secretary and the mayor and I and others attended, called "Making a Splash," trying to develop an identity for things such as mackerel and dogfish and skate and herring, things that could be a protein resource domestically and to the world.

We have also engaged in programs in the Seaport Bond Bill, summaries of which I presented to you, to retrofit vessels, to try to rebuild our shoreside infrastructure, because today the commercial lending community simply will not make loans to the Gloucester fishing community, based on the prediction of financial disaster which is impending as a result of Federal regulation as a result of natural conditions. So, Mr. Chairman, we have engaged in many of those things.

One of the things that I think is important to point out is the type of economic disaster that we are facing. I have for the Subcommittee, and I will present them to you at the conclusion of our testimony, actual landing slips from the vessel Virginia Surf.

Mr. Chairman, what these landing slips testify to is the fact we have an additional disaster taking place, and that is the flooding of Canadian fish into U.S. markets, driving the price down even as fishing effort is being reduced.

These landing slips testify to the fact that x-vessel prices for some cod are as low as 56 cents. That, Mr. Chairman, is not the lowest it has been. That is why we agreed to retrofit, that is why we need to support the fish auction you are going to hear about today in both Gloucester and New Bedford. There is \$500,000 for those auctions in both New Bedford and the city of Gloucester in the Seaport Bond Bill.

We understand what we need to do. As you have pointed out, as the mayor has pointed out, and as others will point out, this administration and this legislature in Massachusetts knows the nature of the crisis. That is why we have got retrofitting and marketing and the investment in the State fish pier, to be able to diversify into transition. It is critical that we continue to have SBA assistance to take advantage of those opportunities. Just as Congressman Jackson has pointed out, we don't want to miss those opportunities in the face of a crisis. But even as we do, we can expand them into something that will be prosperous in the future.

Chairman TORKILDSEN. Thank you, Senator Tarr.

Secretary Coxe, did you wish to add anything?

Ms. COXE. I will just add a little bit, really for the benefit of Congressman Jackson.

Salt water is in the blood of anybody who lives in Massachusetts. That is really why we are here, to appeal to you and Congressman Torkildsen to do whatever you can to help us out, but to also convey the sense that in Massachusetts we have taken matters into our own hands and done everything that we think we can do to make the situation relevant to the fishing crisis better.

Additional efforts have been made by Massachusetts through a very, very aggressive program to enhance underutilized species. Not only are we doing an advertising campaign to get people to eat and buy underutilized species, but the Governor issued an executive order about a year and a half ago in which all State facilities, schools, jails, have to buy underutilized species as a way of providing purchasing power to that arena.

We just recently, in the last year alone, have opened up more than 40,000 acres of shellfish beds in an effort to keep people on the water, knowing how important the opportunity of staying on the water is to the fishing businesses of our State.

The seaport bond bill, which includes a tremendous amount of money, of fishing assistance to our fishing businesses, probably went through the legislature faster than almost any bond bill we have seen occur, because it was considered to be an incredibly high priority for the State.

We have suffered and struggled through the whole discussion and dialogue of Titles 5 and 7, a very hard discussion that confronts us every day of the week, one that requires people on all sides to really sit down and figure out what we are going to do about the future, what kind of sacrifices are we willing to make, and how can we do that efficiently.

So I think the State really deserves a lot of credit, working with the fishing community and working with towns and cities along the shoreline, of trying anything and everything we can to bring fishing back to our State and keep it alive well into the future.

Chairman TORKILDSEN. Thank you, Madam Secretary.

I am now going to defer to Congressman Jackson for questions he may have. I have to excuse myself for one moment. In the interest of bipartisanship, Congressman Jackson will be chairing the hearing until I return. I thank him for doing so.

Mr. JACKSON [presiding]. Let me thank the Chair for being so kind as to allow me the privilege of chairing my first hearing. I have been here all of about 6 months, so expect a lot of mistakes in the next 5 minutes. If you bear with me, I will certainly bear with you.

My first question is really for the SBA. I am interested in how you define—and maybe it is a function of how we define it statutorily—how you define a natural disaster, and under what circumstances would fishermen in Massachusetts and these three counties the Governor has determined to need this assistance, in what ways would we define natural disaster to cover the crisis they are confronting?

Mr. KULIK. Mr. Chairman, first let me say it is a pleasure to address you as “Mr. Chairman.”

The definition of "disaster" is statutory. It is contained in section 3(k) of the Small Business Act. It is as follows: "The term 'disaster' means a sudden event which causes severe damage, including but not limited to floods, hurricanes, tornadoes, earthquakes, fires, explosions, volcanoes, windstorms, landslides or mud slides, tidal waves, ocean conditions resulting in the closure of customary fishing waters, riots and civil disorders or other catastrophes, except it does not include economic dislocation."

The legislative history of the provision goes on to indicate very clearly, particularly with respect to the fishing industry, that was intended to cover natural occurrences such as the El Nino tide and that the phrase "ocean conditions resulting from the closure of customary fishing waters" was intended to cover such things as toxic algae blooms, commonly known as red or brown tide.

Mr. JACKSON. If I can ask the Senator, because I really enjoyed your remarks and understood them clearly, what is it in that statutory language that, one, would determine—would make the application of these loans applicable to fishermen in these counties?

Mr. TARR. Thank you for the question. Let me first again congratulate you as well. In my first day in the Massachusetts House of Representatives many years ago, I was asked by a senior member to get a cup of coffee. He mistook me for a page. So, I can sympathize with what you are facing today.

The definition that the prior testimony refers to is an exact description of what is happening in the New England fisheries. By very definition, we are losing recruitment, which means that year-classes of fish are not coming through as quickly as we would like them to. That may be attributable in part to overfishing, but I think we all know there is a larger situation at work, in part due to climatological changes.

We do, in fact, have an ocean current that is well defined causing a warming trend called the Gulf Stream. I think it precedes El Nino in being identified.

In addition to that, there is a situation that is taking place in terms of predator stocks on Georges Bank that are consuming the juveniles of the groundfish, as well as their spawn, not allowing those fish, the groundfish in particular, to have recruitment and to have year-classes.

In addition to that, Mr. Chairman, there are changes in the bottom where these fish spawn. Those changes make it very difficult to have the kind of cover that the fish require in order to have large year-classes and in order to reproduce in the way we like.

In fact, Mr. Chairman, there has been some evidence produced by the scientific folks that work for the New England Fisheries Management Council that does suggest, as the secretary has referred to, that even if we stopped fishing altogether, that we would still have a severe depletion problem as a result of climatological changes and predation.

What we are working on is still not as well defined as the limited defense figures we have of other kinds of disasters and other climatological changes.

In conclusion, Mr. Chairman, I would also point out that as pleased as we are to see the bipartisanship of this Subcommittee, that I would also be remiss in not mentioning to you that we now

have in Massachusetts something called the Massachusetts Fisheries Recovery Commission, which is intended to direct scientific inquiry into these many causes in the face of this sudden crisis. The secretary and the Governor will soon be making appointments to that.

I have to tell you that instrumental in the development of that commission, and, for the record, Mr. Chairman, been my colleagues from the majority party in Massachusetts, certainly Senator Montigni and also Representatives Quinn, Strauss, Cabral, and Verga. So, crises suddenly do bring people together, Mr. Chairman, not only on the Subcommittee today, but also in Massachusetts.

So I think that what the gentleman has described is tailor-made to the situation that is before us, and we appreciate your insight into that situation.

Mr. JACKSON. Madam Secretary, did you want to respond?

Ms. COXE. No.

Mr. JACKSON. Thank you very much.

Mr. Chairman?

Chairman TORKILDSEN [presiding]. Thank you very much, Congressman Jackson, for your questions and for chairing the hearing.

To go back to Mr. Kulik, I disagree very much with the SBA's decision, to pick up on Mayor Tobey and Senator Tarr's comments. It seems very much like the SBA is going out of its way to find a way to say no. The SBA should be there to find a way to say yes.

Without going into the specific appeals, is there anything at all the SBA can be doing to help these fishing families, the overwhelming majority of which are small businesses, and the overwhelming majority of which in our area are going through a crisis? I think no one can dispute that.

What can the SBA do to help these families get through what is going to, by conservative estimates, be a 5, 7, maybe even 10-year period of these very onerous regulations and reduction in fishing capability?

Mr. KULIK. Mr. Chairman, you certainly have made your disagreement with our decision evident today. However, we believe our decision is based on very sound legal principles.

I do appreciate the problems that the fishing industry in Massachusetts is having. You know, of course—and you mention what the Department of Commerce is doing—that the Small Business Administration has a full range of regular business programs which have been made available in Massachusetts for the fishing industry.

Unfortunately, however, these loan programs are bank guarantee programs. These are not direct loan programs.

We have contacted 40 specific banks in the New England area regarding our efforts and asked them to please cooperate with us.

We have not had much of a reaction from the banks. Unfortunately, we cannot control that. The reasons we were given when we asked, why there has been no activity on this front, were that the bank did not want to write off any portion of its loans, they didn't want to charge off anything for those that were in trouble. For those not in trouble, the banks were perfectly happy, because the terms of the loan were being met and payments were being made.

Chairman TORKILDSEN. In the case where a banking entity is lending money under a guarantee program, normally you need some ability to repay that loan under whatever terms are there. In the case we are facing right now, many families are faced with enormous debt, sometimes debt they incurred under encouragement from the Federal Government to buy larger boats and better technology and the like, and now they are told that the means that they originally had to repay that loan, some assurance of being able to fish, is now being either totally removed or greatly, greatly reduced.

Normally, you can't lend someone money on normal terms if they don't have the ability to pay it back. That is the reason we have disaster loans, because we know a lot of individuals in that situation could not walk into a bank and qualify for a loan, even under the guarantee provisions that the SBA has.

So what can we do for these families that are clearly in a crisis and will be for several years? Is there nothing the SBA can do at all for the small businesses?

Mr. KULIK. Let me say specifically disaster loans are also loans, and we must find a reasonable assurance of repayment before we can make a disaster loan. We do not require the same type of collateral or same type of loan-to-value ratio as normal banking loans would, but they are loans, and we have to determine that there is a reasonable chance of repayment.

If you will recall, Mr. Chairman, from the hearing you held last year in Massachusetts, most of the witnesses at that time talked about not wanting loans. In fact, they were up to their limit in debt and didn't see how even an SBA disaster loan, long-term, low interest, could help them. They were more concerned about the possibility of grants.

Chairman TORKILDSEN. Does the SBA have any grants?

Mr. KULIK. No, sir, we have no statutory authority for grants nor any money for grants.

We also have assistance in the form of SCORE, our Service Core Of Retired Executives, for business counseling, and, as you know, the Small Business Development Center in Massachusetts has been very active in trying to help the fishermen involved and to point out any possibility of affirmative action that they could take.

Chairman TORKILDSEN. Rather than monopolize the time right now—there are some further points I would like to go into—I would like to give the gentleman, the Ranking Minority Member of the Subcommittee, Mr. Poshard, a chance to either submit or give testimony or make a statement, rather, or ask questions.

Mr. Poshard.

Mr. POSHARD. Mr. Chairman, for now let me ask unanimous consent to submit an opening statement for the record and defer to my friend from Illinois, Mr. Jackson, who has been here all along. I need to hear more testimony and so on before I can adequately ask the questions that I need to.

Chairman TORKILDSEN. Without objection, so ordered.

[Mr. Poshard's statement may be found in the appendix.]

Chairman TORKILDSEN. Congressman Jackson, did you have any further questions?

Mr. JACKSON. Let me thank the distinguished Ranking Member, Mr. Poshard, for this opportunity once again.

I am concerned, and I asked the chairman, maybe Mr. Kulik can respond or certainly someone, Mr. Tarr or Mr. Tobey, how many businesses are we actually talking about and the size of the loan or request that is being sought? Can either one of you respond to that?

Mr. KULIK. I would defer to the representatives from Massachusetts and Gloucester.

Mr. JACKSON. The number of businesses that we are talking about that have been affected by this? The size of the assistance?

Mr. TARR. We are going to defer to Paul, who does have that information at his disposal.

Mr. SISSON. Thank you, Mr. Jackson.

The answer to that question would be, we are probably talking about roughly 2,000 small businesses as far as vessels in Massachusetts that would be in need of loans. We currently have programs that we are trying to put together to work with vessels looking for the long-term diversification of our industry which we feel will give us a much stronger, more stable industry in the future, than we are currently experiencing at the current time.

The biggest needs are for transition purposes, for the loan program that has been requested. In order for a business to be able to take and refit their vessel, to change from being targeting primarily to groundfish and going for alternative species, which we have heard mentioned that we are marketing, they need to be able to borrow working capital funds, because they have to take their vessel out of fishing in order to make the changes. These are the particulars that we feel would be important for this program.

Mr. JACKSON. The size of the loan that we are looking at?

Mr. SISSON. I don't believe that we came up with a specific amount as far as size of loans, but I would anticipate that loans of this nature would probably be running in the \$10,000 to \$15,000 range.

Mr. JACKSON. Thank you.

Mr. KULIK. Mr. Jackson, in addition to the 2,000 vessels that were mentioned, there are a number—and I don't know the number, perhaps some of the other witnesses would—of shore-side businesses that would be affected too and that might have to be involved in some kind of change.

But I would also like to mention that the Economic Injury Loan Program is a limited program, and it was not designed nor would it provide funds for any business to go into a completely different business. It was designed to permit a business to pay the bills, its ordinary and necessary expenses, that it could have paid had there not been a disaster, but cannot pay now to tide it over to the time that it is once again profitable in its business.

This is not a loan program for expansion, for buying new equipment, or for anything of that type.

Mr. JACKSON. I am going to yield back the time to the Ranking Member, Mr. Poshard, but I just want to add that it occurs to me when we talk about 2,000 vessels and some of these communities, we are also probably talking about the impact on local banks, the impact on the entire local economy, not just these small businesses.

We could be looking at a rippling effect that would obviously devastate the area.

Mr. TARR. Congressman, if I may add a little bit to the discussion, not only are we talking about, as we said, direct jobs in the industry, we are talking about an industry that has a multiplier effect of between 4 and 7 to 1.

Unlike many other communities that are relying on manufacturing to support their service industry, we rely in part on fishing, because it, in effect, is a form of manufacturing that requires input services. Input services, I would point out, are very skilled people, whether they be welders, net menders, or engineers that work on these types of vessels.

In addition to that, you asked the question, what are the sizes of the loans? I think there is a very illustrative example to be had in that question, and that is, in order to convert the average large trawler to go after herring or mackerel, a species we know are in overabundance in New England and in fact are causing part of the natural disaster by consuming the spawn and the juveniles of the groundfish, in order to make that transition requires somewhere between \$100,000 and \$200,000. I would point out, that is a transition from one segment of the industry into the other.

Now, interestingly enough, Representative, just recently in Gloucester we had a fishing vessel purchased by the BuyBack Program for \$190,000. That vessel was cut up with cutting torches and rendered useless. That individual is out of business. That piece of fishing infrastructure is gone forever.

So for those same \$200,000, which could flow through, we hope, the Small Business Administration, we could keep that vessel working, we can employ more individuals, because the pursuit of those underutilized species is more labor intensive, and we could have a more satisfactory result than merely handing a check to somebody merely to preserve their dignity, which is important, but we could have a better result, which is to preserve their working career in this industry.

When we talk about businesses shore-side, we are talking about numerous businesses that I have already outlined for you. But just to give you an example, the fish auction that is being discussed today is going to require somewhere in the vicinity of \$1 million in capital to get started. So, it depends in terms of magnitude about what we are talking about, a vessel or shore-side business.

The fact remains, we can spend our dollars in one of two ways: We can help people exit their working lives and seek other forms perhaps of public assistance or uncertain career futures, or we can help them to stay in a business that this country needs to create a reliable export of protein and create a strong family that is interconnected, as we have already pointed out, because many of these businesses are cross-collateralized, business to boat, boat to home, home to home.

Chairman TORKILDSEN. If you would like to comment, Mayor Tobey, and then I will ask Mr. Poshard.

Mr. TOBEY. Very briefly. As I stated earlier in my testimony, my background includes a stint as a public sector lawyer. There is always a way to say no. There is another trick to the trade too, which

has just been shown to us here. There are also distinctions that don't make a difference.

We have been told the money is not intended to give them the ability to retrofit, it is to pay the costs they could have otherwise paid. Those costs haven't gone away. There are bank loans to be paid, suppliers and insurers to be paid. With these loans in place, those costs could be met while other resources are devoted to the retrofitting and the like that needs to occur.

Chairman TORKILDSEN. Mr. Poshard?

Mr. POSHARD. Mr. Chairman, forgive me for not having complete knowledge of the situation here.

I have great deal of sympathy for your issue before the Subcommittee. I represent a coal-mining area, high-sulfur coal-mining area, and the Clean Air Act 5 years ago absolutely decimated our entire area. We have lost nearly 70 percent of our mines now, thousands of people out of work. But in addition to that, hundreds and hundreds of small businesses that depended upon those coal miners working have also disappeared in our small towns and villages. So, I am sympathetic to the nature of your problem.

I want to reverse gears here a little bit and ask Mr. Kulik, if I may: My area in southern Illinois for the second time now in the last 4 years has just undergone flooding. The SBA was magnificent, working with FEMA in their approach to helping our small businesses that just literally were wiped out with those floods.

I am needing to understand, because we were able to get emergency declarations and so on and get assistance in very quickly, working with Mr. Witt and with the SBA, how is that different, the determination there to help our people, and the determination here not to be able to help these folks?

I am sorry I missed the earlier testimony, but I was tied up and didn't get to hear it.

Mr. KULIK. The disasters in Illinois, the flooding in Illinois, were declared disasters by the President under the Stafford Act. That brought into play not only the Federal Emergency Management Agency's Programs, but also all of SBA's disaster programs. Those were physical disasters. Even if they had not been declared by the President, they would have fit the statutory definition that is contained in the Small Business Act.

What we are talking about in connection with the fisheries is not a physical disaster. Nobody's property was destroyed. It is an economic injury disaster. That operates under a different provision of the law, and the specific disaster in question, which we have been discussing back and forth, does not, in our opinion, fall within the specific statutory definition.

Mr. POSHARD. Does it fall within any particular area of aid or assistance that SBA could administer?

Mr. KULIK. Yes, sir. Once again, our regular business lending programs, the 7(a) Program, the 504 Program, are specifically designed to handle such things as long-term retrofitting, as going into new businesses, et cetera. But those are not part of the disaster program. Unfortunately, those are bank guarantee programs, not direct lending programs.

Mr. POSHARD. Mr. Chairman, I certainly am committed to working with you in doing what can be done and researching whatever other programs, as well as looking at this.

I know in the case of our coal-mining communities and so on for our people, there were job retraining funds and there were some economic injury funds for some of the small businesses and that sort of thing.

So I would be happy to work with you in doing whatever I can to a help address the needs of your constituents.

Chairman TORKILDSEN. I thank the gentleman for his offer of help and for his understanding. Having been through a very sudden economic downturn also caused by regulation in your own community, I think you can bring experience to it that perhaps would not be readily understood by someone who had not gone through the same experience.

I don't want to rehash the same issues. Mr. Kulik did state the SBA's position, and he is stating the SBA's position, and I don't dispute that is their position. I do happen to disagree with it and will be asking for the SBA to look again for some way to help in a disaster mechanism for these families who have been affected.

At the same time, today I will be proposing an amendment to a reauthorization to allow the SBA to offer disaster assistance when a governmental action or decision has caused the severe consequences that were experienced up in Massachusetts today.

With that, if there are no further questions from members of the Subcommittee, I would like to thank all of the witnesses for their testimony and would like to ask the second panel to please come forward. Thank you very much for your remarks.

Our second panel is comprised of witnesses who are very much involved in the day-to-day activities of the fishing industry in Massachusetts.

Vito Calomo is Executive Director of the Fisheries Commission in Gloucester, Massachusetts; Jim Kendall is Executive Director of the New Bedford Seafood Coalition; Larry Ciulla is from Star Fisheries; and Corrado Buccheri is from BNN Fishing Gear in Gloucester, Massachusetts.

As with our first panel of witnesses, if I could ask you to summarize your testimony, your written statement will appear in its entirety in the record. That will leave us time for questions.

Vito Calomo, you will be our first witness. Please proceed with your testimony.

#### **TESTIMONY OF VITO CALOMO, EXECUTIVE DIRECTOR, FISHERIES COMMISSION, GLOUCESTER, MASSACHUSETTS**

Mr. CALOMO. Thank you, Chairman Torkildsen.

Welcome aboard, Congressman Jackson.

Chairman TORKILDSEN. If I could ask you to pull the mike up to you so we can record you.

Mr. CALOMO. You will hear me.

During President Clinton's first campaign to the White House, he said this great country of ours was formulated from small family neighborhood businesses on each corner of our great American cities and towns. America's small businesses have continued to be the strength of our great economy.

President Clinton has also stated that his aim as President of the United States is to return to these neighborhood small businesses and to regain an even stronger economy.

Each fishing vessel in the port of Gloucester, Massachusetts, is a small business, employing three to eight fishermen per vessel. We have thousands of these vessels up and down our coast. But unlike some of our land-based stores, the fishing industry generates approximately 6.6 jobs for every fisherman that goes to sea.

In Gloucester, Massachusetts, my hometown and the oldest fishing port in the country, one commercial fishing vessel buys ice by the tons from the local ice company. In addition, that same vessel buys hundreds of gallons of fuel from the local fuel companies, hundreds of dollars' worth of groceries from the neighborhood grocery stores, and hundreds of dollars worth of gear from the local fish chandlers. The fishing boats will also usually spend hundreds of dollars for local services, be that of engine repairs and electric repairs.

When the vessel is finally ready to put to sea, it has incurred, in general, several thousand dollars' worth of expenses before it has left the dock. The small business is already in the red before the engines are started.

An offshore Gloucester dragger will spend an average of 10 days at sea. Some of the time is spent traveling, and some of the time is spent in search of fish, while the rest of the time is spent actually fishing for fish. If successful, the vessel will return with approximately 30,000 pounds of mixed groundfish. The crew will spend the day helping to unload fish to the fish plants.

That vessel will again hire about six longshoremen to do the actual unloading and create more employment. The plant that the fish is sold to will hire dock workers, fish cutters, fork truck operators and truck drivers, sales personnel and brokers.

The fish will then be distributed to either freezer cold storage or fresh fish stores, creating still more employment for the small but life-giving city businesses.

Also a fishing vessel gets hauled out in the shipyards for repairs. The other small business we never think about in reference to fishing vessels are the intangible insurance businesses in the service of the commercial fishing vessels.

In my short my report, I have named 14 small businesses whose livelihood depends directly on fishing vessels. The what has this sudden closure of fishing grounds by Federal Government authority done to Massachusetts small businesses? They have been completely caught off guard, shut from lending institutions, cut off from the work force. Vessels that carried seven crewmen go to sea with four. Vessels that fished with four crewmen now go with two.

We in the fishing port of Gloucester, working with Mayor Tobey and the city council, are trying to open new markets for underutilized species such as herring. But with the sudden closure, we haven't had the time to retrain and retrofit our fish plants and fishing vessels.

It seems like we have the plague when it comes to getting loans from banks and other lending sources for our fishing industry. Our city and State leaders are trying to redirect industries in this coast-

al city and communities, many of which depend on the tourist trade.

The tourist industry, however, is not an adequate substitute, due to its seasonality. In addition, many tourists are attracted to Gloucester and New Bedford to see real fishermen at work unloading their fish and mending theirs nets.

I guess the tourist industry is number 15. We in the city of Gloucester, Massachusetts, are not dead, but with the sudden closure of the fishing grounds, our industry may die a painful death.

The U.S. Government has not given any consideration to the ramifications of so negatively impacting the many businesses that are affected by these regulations. Now with the implementation of Amendment 7 to the Northeast Fisheries Management Plan, the need for your assistance is greater than ever before.

The social and economic impact statement attached to Amendment 7 States that the fishing industry in many New England ports will not survive and the probability of survival for Gloucester's fishing industry is not promising.

Where are the human and economic concerns for all that our fishing heritage represents? What outcomes are Federal policy-makers considering? It certainly is not about we, the people. Where is the plan to save the industry?

Yes, I agree, something is needed to save the fish. But if in the final result when the fish make their comeback, which is already happening, there won't be any fishermen from Massachusetts left with the know-how to harvest them, then what has been accomplished for these many small businesses, other than destruction?

These sudden measures are definitely a sudden disaster of the highest order for the fishing industry of Massachusetts.

I thank you and appreciate the opportunity to speak in front of you.

[Mr. Calomo's statement may be found in the appendix.]

Chairman TORKILDSEN. Thank you, Mr. Calomo.

Jim Kendall, please, your testimony.

#### **TESTIMONY OF JIM KENDALL, EXECUTIVE DIRECTOR, NEW BEDFORD SEAFOOD COALITION**

Mr. KENDALL. Mr. Chairman, thank you. Members of the Subcommittee and guests, I would like to thank you also for being asked to appear and give my testimony on this.

I am a former fisherman of approximately 33 years. The reason I am doing what I am doing now, Executive Director of a New Bedford Seafood Coalition, is because I experienced a disaster. I ruined a leg, I was forced ashore, so I know a sudden impact when I see one.

Massachusetts is requesting some disaster funds and some disaster assistance due to the fact that we are being unduly burdened by the impact of combined weight of management measures and a downturn of the fishing industry. Part of the problem is that all the downturn on the industry has been pointed at one easy answer, and that is overfishing by the fishermen. If it was that easy, we would find ways to fix it easily.

The sudden impact brought about by these closed areas we keep referring to are just that: They are sudden. They were meant to be

temporary, they were meant to be used in spawning seasons to protect the aggregate concentrations of spawning fish. Someone decided that this seemed like a good idea, it should be expanded upon, both in area and timeframe.

Then comes along another impact that hits another portion of the fleet that wasn't even considered at one time, the scallop vessels. All mobile fleets right now are being excluded from this area, which, like I explained before, has been expanded, it has been extended for year-round closure with no hope of opening it.

We don't know what the consequences are of all the combined effort being placed on less than half the Georges Bank that once was at least a double area. Part of the problem comes from the fact that over 50 percent of Georges Bank is now closed to us. But it goes much further than that when you consider that probably equals at least 70 percent of the fishable bank for us.

The BuyBack Program only addresses groundfish vessels. It does not provide for the relief of other fisheries such as the scallopers, nor does it provide any relief for the shore-side businesses that are suffering proportionately with the vessels.

The failure of any part of this infrastructure has a profound effect that may not be readily apparent at first, but recently off-vessel prices for fish declined so drastically, and this was due primarily to the fact we could not handle the amounts of fish that were being landed in New Bedford.

We had the fish, we didn't have the people to handle, and to aggravate that beyond what we expected, we ended up with Canadian fish coming into our ports and markets and challenging us with the Canadian dollar value.

This is contrary to the socioeconomic impact studies and statements that were provided to the New England Fishery Management Council in the course of their deciding what Amendment 7 was going to look like. It is also required by the Magnuson Act, and it has been shuttled back and forth and kind of handled shoddily, at best.

Not all of us want to sell our boats. No one wants to fail though. We can only seek relief for the boats or businesses with the banks, and they turn a deaf ear.

We have one vessel being towed in by the Coast Guard, completely paid for. It is going to cost approximately \$15,000 to \$20,000 to get it on the railway. It cannot find the money. The New Bedford Corporation which is handling the local revolving loan funds had over 100 requests that total up to \$7.5 million with a low interest rate and revolving loan fund. They had \$2.5 million to work with.

My group, the New Bedford Seafood Coalition, was funded by a technical assistance grant through this corporation, and we are not sure if we are going to be able to seek further funding there. So, the corporation I am representing now to represent the New Bedford fishing industry may not be a viable entity come next year.

We don't know what the overall impact of the remaining open areas is going to be, like I explained before, but what if our science is inexact or incomplete? How do we make up for it then?

Canada have taken the opposite course in the management of the same resources that we are out there fishing along side of them.

They have recently asked for a two to three time increase on their fishery allocations, while we are going in the opposite direction and requesting a 50 percent reduction.

If we cannot as fishermen decide the course of our own fate, then we must have those making the decisions for us help stay afloat long enough to help us share in the rewards our suffering is meant to bring about as the stocks rebuild.

We knew all along not all of us would survive, but we did not expect all of us would be allowed to perish, as if we ourselves are an expendable resource.

Thank you.

[Mr. Kendall's statement may be found in the appendix.]

Chairman TORKILDSEN. Thank you for your testimony.

Mr. Ciulla, I will ask you to testify and Mr. Buccheri.

Just to let everyone know, the bells ringing indicate that Congressman Jackson and I will be called for a series of votes. We will have to leave in about 7 minutes. By the time we return from those votes, the full Committee will be meeting in this room.

So if I could ask both of you to summarize your statements, and, again, your full statement will appear in the record, then perhaps leave a few minutes for a few questions.

### **TESTIMONY OF LARRY CIULLA, STAR FISHERIES, GLOUCESTER, MASSACHUSETTS**

Mr. CIULLA. I was going to say good morning, but it is more appropriate to say good afternoon.

Thank you for the opportunity to appear before you today to provide you with the perspective from a third-generation member of a family that has been in the fishing industry for over 70 years.

My name is Lawrence Ciulla, and I am President of two small businesses in Gloucester, Star Fisheries, which was started by my grandfather nearly 35 years ago, and the newly founded Gloucester Display Auction, which is a Gloucester electronics display auction. I hope that my examples will demonstrate to you the sudden and immediate impact that Amendment 5 and now immediately Amendment 7 on top of it had on the fishing industry, and the problems that occurred in obtaining new financing due to Amendment 7.

In reaction to some of the Federal regulations, we have had to move quickly and swiftly. We had to diversify to the best of our ability, using the best financing we can, yet keep ourselves healthy in a situation that is very scary for all small businesses in the industry.

I would like to just use the Gloucester Display Auction as an example, and, remember, I am using this only as an example. The Gloucester Display Auction, the electronic display auction, was derived to meet the concerns of the stocks that were falling off as far as volumes go.

What we were trying to do is get the boats a greater return for their product. Since the products coming to the ports are in less volume, we needed to get them a greater return price-wise. So, what we try to do is to link them internationally to other markets throughout the world, not just for the species they are out catching

now, but for the species that are underutilized, for the species that there is an abundance of, such as mackerel and herring.

Let me directly bring your attention to some of the problems we have had. Now, taking into consideration Star Fisheries, this is a debt-free company. It is sitting on 3.5 acres of oceanfront property in the Port of Gloucester, debt-free property. Our plans now for the auction are ready to go. We have our permits in hand, we have our contract, or contracts, actually signed. So, what is the holdup? The holdup is some additional financing.

Unfortunately, local banks have been unwilling to provide us with conventional loans because of their broad-based fears regarding the fishing industry in general. They see the recent product decrease and subsequent layoffs as symptomatic of an industry that is dying, that is dying, not of one that is in transition, not of one that sees windows of opportunity ahead of them, but one that is dying.

We have turned to the State level. We have worked with the land bank, agents of Massachusetts to help us get additional financing. They have combined to form MDFA, Massachusetts Development Finance Agencies. We are working with them and have been working with them. Though we meet all the criteria for loan applications and though they have verbally committed to us to help us and stand by us in this project, it has been a year and half, and we still haven't gotten a determination on the project.

It is this exasperation that exists for us, this frustration, that brings us here in front of you today. We need help. We need help in the form of practical financing, practical, flexible financing, so we can keep our industry healthy, to continue to work in our industry, and so when Amendment 7 does what it needs to do and brings back and replenishes the fish stocks, we are alive and we are well and we can use these stocks to create a viable, much healthier business and continue to compete in the world markets with our foreign competitors.

We are here not because we want to be here. We are not here because we have not explored other avenues. We are here because we need to be here. We are speaking as one voice. Please, gentleman, hear our cry. These are needed assistances that we seek.

Thank you.

[Mr. Ciulla's statement may be found in the appendix.]

Chairman TORKILDSEN. Thank you very much, Mr. Ciulla, for your testimony and that specific example about the electronic auction.

Mr. Buccheri.

#### **TESTIMONY OF CORRADO BUCCHERI, BNN FISHING GEAR, GLOUCESTER, MASSACHUSETTS**

Mr. BUCCHERI. Good afternoon, Mr. Chairman.

I will be brief. If you want to summarize, more or less what we need is more assistance. We all have worked very hard, and Amendment 5 and 7 going into effect destroyed the industry. About a year from now, there will be no fishing industry left in the port of Gloucester.

Before the sudden impact, the rules and regulations, and the heavy cost of doing business, the heavy cost of insurance and all,

no one can survive. A small breakdown, like the gentleman said, Mr. Kendall, and we are out of business. We are losing boats every day. The Orion was just lost, being taken out to be auctioned off, three families and a house on the block to be lost.

I have tried to get some loans from three different banks, different applications. All in all, I was told, "Due to the uncertainty of the fishing industry, we cannot help you at this time." No matter where you turn, if you have anything to do with the fishing industry, all they do is shout, "There is nothing here."

We all need to diversify. We are trying to diversify. Myself, I went to the Gloucester revolving loan fund. I applied for some funds that I want to diversify throughout the industry. I applied for \$100,000, and I was granted \$54,000. But their requirements were, they needed the assets of Gloucester Auto Body, my other company, the assets of the fishing gear, and my personal house, not even on the building I own. They were tying my hands and feet.

I have family, kids, college, that I want to help. If I lose all of that, I have no more borrowing power. I don't want to destroy my family livelihood. So, I could not accept that.

That is what we are faced with, no matter where we turn or what we do.

Only one other thing. A lot of money was promised when this problem came about to the fishing industry and the fishermen, but little has reached the fishermen. In Gloucester, that I am aware of, only \$300,000 arrived, and they were given in the form of loans, no free money, but low-interest loans to help defray the cost of all the new netting they needed to buy 2 years ago in 1994. They are still paying for it. Like I said earlier, any breakdown, and you are out of business.

I personally, and everyone, was ever so thankful to the late Secretary Brown when he came to Boston with a promise of \$30 million. Everyone is wondering what happened to that. We were all happy that some help was coming, but nothing has reached the fishermen. Somehow the money got lost along the way.

Like I said, if this keeps up, in a year there will be no fishing industry.

Thank you very much.

[Mr. Buccheri's statement may be found in the appendix.]

Chairman TORKILDSEN. Thank you very much, Mr. Buccheri, for your very poignant testimony. It really hits to the heart of it.

I will make a couple of comments. First of all, I think all of your testimony today points out that all people in the fishing industry are asking for is a chance to make an honest living. No one has said they want a farm subsidy program or anything of the type. They are just saying, give us a chance to make a living. You, the witnesses here, and everyone in the fishing industry should be commended for that.

Also the points that Mr. Buccheri made. A lot of these costs are costs of complying with earlier regulation, people still paying off the loans they took, changing the mesh size of their nets, only to be told a year later they have to change their mesh size once again. So, a lot of these costs would not have been incurred in the normal course of business. It is just complying with regulation, to begin with. These are loans they can't pay because they are told they

can't fish or only fish on such a limited number of days, they can't hope to repay all that they had to borrow to that point in time.

The general question for all of you is, what other steps would you say would make a difference for you? We are talking about disaster loans here. Certainly I think they are justified. Any other initiatives we can use to prod the SBA or another Agency on to say this is how to make a difference, this is how to make sure people who are in the fishing industry can support their families in the fishing industry of the future? Certainly it is going to be more different, more reliance on mackerel and other species than in the past. But what other steps would you recommend for the SBA or other agencies that we can help get through this crisis period?

Mr. CALOMO. I think that instead of buying out vessels and putting them out of business, if we would take that money and put us back into other businesses, like the mackerel and herring.

I am going to get a little off that question. I know you are in a rush, but I speak real fast as an Italian background. I want to tell you this. My family chased mackerel for over 35 years, from the Gulf of Maine to the Virginias, and now the mackerel—we talk about natural disasters. The mackerel are so far offshore, no one can believe it. My grandfather chased them the same route, my father chased them and I chased them. We find the few mackerel that come into Gloucester have spawned in March. My grandfather and my father and myself before never saw spawned mackerel. So, something is radically happening.

When we talk about natural disasters, current changes, I am not a scientist, but something is definitely happening. If we were to get some funds appropriated to keep us in business and go into other fields, I am sure we could survive.

Chairman TORKILDSEN. Thank you.

Mr. Kendall, any comments?

Mr. KENDALL. I think maybe one of the things we have to do is look at making this science exact or more exact or as exact as we can possibly make it and not just be relying upon what little is coming in and being told we have to accept this.

There are several proposals being offered now. We have to make sure we find a way to make sure this becomes a reality.

I was referring earlier to a vessel that needs \$15,000 to \$20,000 to survive when it has an equity of probably \$200,000 to \$300,000 and can't find someone to loan it this money, which to me seems absurd. That is not the only boat. That is the problem.

Out of those 100 requests that I mentioned earlier to the New Bedford Corporation—I believe the number that I cited earlier—out of all that were funded, we have had one failure to date, even with everything going against it.

When they are given a chance to survive, they do their best to do it and do their best to pay back the monies they have borrowed to get to where they are. So, I say try to give us a chance to survive along with the stocks and we will do our best with it.

Chairman TORKILDSEN. Thank you.

Mr. Ciulla, Mr. Bucheri, any further comments?

Mr. BUCCHERI. What we need is to, again, look to diversify. We need long-term debt restructuring. We need to diversify into other

markets like Mr. Ciulla is doing. So, people who need to retrofit the boats.

But here again, the groundfish stock we need to rebuild in the next 3 to 5 to 7 to 10 years. With only a few days of fishing, no one can survive. Somehow there has to be a package put on, long-term, of debt restructuring and mortgage insurance so we are here when the stocks recover. Otherwise, no one will be left to fish, because of the time involved. We need the fishermen to be able to harvest. We are protecting one species but destroying the true endangered species, the fishermen.

Chairman TORKILDSEN. Mr. Ciulla, we will give you the final words.

Mr. CIULLA. I think basically what needs to be done, the Federal Government really has to look at this and see there is opportunity for us out there, all of us, in the industry. There are markets that we need to explore, obviously. But we need help getting there. We need some type of assistance in the form of flexible financing and innovative financing and in the form of low-interest loans to get there.

We can't do it on our own. We don't have the capital to do that and reach these other international and global markets we need to reach without Federal assistance.

Chairman TORKILDSEN. Thank you. I will thank all of you for your testimony.

I would ask that the witnesses of this panel and the previous panel be willing to respond in writing if any members of the Subcommittee who were not here have any questions for you. Those will be within the next few weeks. If there is no objection, the record will remain open for 2 weeks for Members to submit statements as well.

I apologize for having to conclude this hearing rather abruptly. The issue is far from concluded. We will discuss it again until we get a satisfactory response.

I thank all of the witnesses for their testimony. This hearing is adjourned.

[Whereupon, at 12:25 p.m., the Subcommittee was adjourned, subject to the call of the Chair.]

## APPENDIX

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### OPENING STATEMENT OF CONGRESSMAN PETER G. TORKILDSEN, CHAIRMAN, GOVERNMENT PROGRAMS SUBCOMMITTEE HOUSE COM- MITTEE ON SMALL BUSINESS

JULY 10, 1996

### OVERSIGHT HEARING ON MASSACHUSETTS REQUEST FOR DISASTER FUNDS FROM THE SBA

Good Morning. It is a pleasure as Chairman of the Small Business Committee's Subcommittee on Government Programs to welcome our witnesses and guests today. The purpose of this hearing is to focus on the Commonwealth of Massachusetts' request for disaster assistance from the United States Small Business Administration (SBA). The request was made on behalf of the fishermen of Essex, Bristol, and Barnstable Counties, all who have suffered severe economic losses because of the sudden collapse of cod, yellowtail flounder and haddock fisheries in their region.

Knowing that the vast majority of these fishermen and processors are small business owners, disaster assistance loans for fishermen and processors in the Commonwealth under Section 7(b)(2) of the Small Business Act, becomes a logical way to help. The current plight of the fisheries in the Commonwealth can be characterized as a natural disaster under Section 3(k) of the Small Business Act which includes "ocean conditions resulting in the closure of customary fishing waters". While the definition has meant "sudden" events, the federal government's actions precipitated this sudden closure after years of pronouncements that the situation was under control, and therefore, the request was justified.

On April 30, 1996, Governor Weld sent a formal request to the SBA certifying that at least five small businesses in each county listed had suffered substantial economic injury as a direct result of the sudden collapse of the fisheries. He further certified that the degree of economic injury was so severe that financial assistance at reasonable rates and terms was not otherwise available, thereby creating the necessity for federal involvement in the form of subsidized loans.

On June 3, 1996, the Governor received correspondence from the Associate Administrator for Disaster Assistance, Bernard Kulik, stating that the request for disaster assistance had been denied. Mr. Kulik admitted that the Massachusetts fishing industry was hurting as a result of the closure of their usual fishing grounds. Yet, he went on to say that "overfishing" is not a "sudden" event as defined under the statute and the specific event cited as the basis for the request, federal or governmental action, was repealed several years earlier, therefore not justifying the request for funds.

The Governor and I share a deep concern for the well-being for the fishing communities that are so seriously threatened. It seems ludicrous that the same federal government bureaucracy that contributed to this dire situation would now decline to offer a helping hand to those harmed.

In an attempt to remedy this situation, during the Small Business Committee's markup this afternoon, I plan to offer an amendment that will make an addition to the definition of disaster. Mr.

Kulik stated that the definition did not include "federal or governmental action". I will amend the definition to include this language.

The Committee is holding this hearing today to review the Governor's request and the hear from the SBA on their ruling. We look forward the hearing from our witnesses today.

With that, I will yield to my colleague, Mr. Poshard, for any opening statement he may wish to make.

HOUSE SUBCOMMITTEE ON GOVERNMENT PROGRAMS  
OVERSIGHT HEARING ON THE COMMONWEALTH OF MASSACHUSETTS'  
REQUEST FOR DISASTER FUNDS FROM THE SMALL BUSINESS  
ADMINISTRATION

Opening Statement of Congressman Glenn Poshard

July 10, 1996

Mr. Chairman, I appreciate your holding this Subcommittee Hearing today on the request for disaster funds from the Small Business Administration.

I look forward to learning more about what is happening in the Massachusetts area and what the witnesses can tell us regarding the fishing industries in this state.

Mr. Chairman, I thank you for your time. I conclude my statement and thank the esteemed witnesses for sharing their time and expertise. I look forward to hearing what the panel has to share with us today.

Corrado Bucchieri  
Before the United States House of Representatives  
Committee on Small Business  
Rayburn House Office Building  
July 10, 1996

Good Morning

Mr. Chairman, members of the House of Representatives Committee on Small Business, I am Corrado Buccheri, the owner of B and N Fishing Gear, located in Gloucester, Massachusetts. Through my concern for Gloucester's fishing industry I am also a member of the Gloucester Fisheries Commission and a member of the Board of Directors of Gloucester United.

On behalf of these organizations, myself and my family, I come this morning to seek your assistance as we work to deal with the consequences of a rapidly developing set of regulations which directly threaten the survival of my small business and the New England fishing industry. Change in the ocean environment and the implementation of Amendments 5 and 7 to the Northeast Multispecies Fishery Management Plan for groundfish have quickly become the largest economic obstacle our industry has faced.

My shop is a small business in all of the traditional senses. It was built on my own initiative and my own hard work, beginning in 1987. When I began the business my work was in response to a commercial fishing industry which was not only the pride of our city, it was the object of government support as well.

Following the enactment of the Magnuson Act and the 200 mile exclusive economic zone for fishing, the expansion of our industry was encouraged by the federal government through the Department of Commerce, the National Marine Fisheries Service and programs such as tax credits and financial assistance to build an American fleet of large draggers capable of harvesting large quantities of groundfish. Around these forms of encouragement and others, our fleet and our industry grew and became more efficient.

Through my business of selling fishing gear I know the reality of the fishing industry today, and it is not the reality of yesterday when our government supported us and looked out for our best interests. The fisherman who walk through my door every day tell a story of socio-economic distress which is growing.

They come to my shop for their most basic tools: net, rope, wire and other related gear which actually catches fish. Today, however, they find it difficult to afford these most basic tools because of the tremendous financial hardships they are facing. Many times they buy only enough gear to get by, and in many cases their purchases are based on a strained credit situation.

My small business has had to confront this dramatic and sudden downturn, and many others in Gloucester and other ports have also. Planning for this sudden stop in activity would have been nearly impossible, if we had known how sudden and severe it was going to be in the first place.

Instead, we tried to work with the federal government to develop plans that everyone could live with. We met among ourselves first, and then participated in meeting after meeting with the New England Fisheries Management Council and the National Marine Fisheries Service. First, we were told that Amendment Five to the groundfish plan would be the solution to recovering stocks and allowing us to survive at the same time. In good faith, we told our government that the plan wouldn't work.

We didn't just offer our criticism—we offered a commercially workable plan to recover our stocks gradually without destroying our community. That plan, known as the Gloucester Plan, was largely ignored. Instead, we were confronted with a federal plan which hit fast and hard, trying to rebuild all 10 multispecies stocks within 5-7 years.

Even though the socio-economic report on Amendment Five predicted hardship and community distress, it was approached based on unrealistic projections of recovery and economic benefit. In March of 1994, when Amendment Five went into effect, we thought we had seen the worst and braced for survival.

Now, just 24 months later, Amendment Seven has come into effect, making our survival extremely questionable. This plan, based on lagging scientific data, was forced through the system when it became clear to federal regulators that Amendment five wouldn't work, and has descended upon us without time to adequately plan for the most difficult economic times of our lives.

Once again, we offered a viable proposal at the single round of public hearings on Amendment Seven held by the NEFMC. Our plan would have adapted Amendment Five to allow a gradual change and progress in rebuilding groundfish stocks. This approach was again rejected based on NMFS's perceived need to rebuild the stocks in a short period of time, and unrealistic cost-benefit assumptions. Science, we were told, spoke of the need for immediate and dramatic change.

Yet the science appears to be mostly based on data from at least three years ago. While our catches are smaller and it is getting difficult to stay in business, Cod and Haddock do seem to be growing in number. What remains unclear is how changes in our environment caused such a sharp and unpredicted depletion in our stocks. Instead, policy makers seem focused only on the convenience of making us pay the price for changes in the environment which no one understands.

Now that the regulations have increased, the suffering has as well. Within two years our fishermen will have only 88 fleet days in which to fish, assuming they can fish on all of them. Federal regulators may believe that this will allow us to survive, but deep down, our families know the difficult reality we face.

Already struggling to meet their debts and business costs, my friends and associates are nearing desperation. I have seen grown men cry in my shop because they know what the federal government won't acknowledge. These are my friends, and they need your help.

Currently a single break-down at sea can be the final chapter in a family-owned fishing business when the family can no longer find any resources to keep the vessel operating. Absent a dramatic incident like a break-down, we struggle together to endure these times. Often, my generosity in terms of credit stretches as far as it can go to keep a friend working to support his family.

Today, my survival in the gear business is in jeopardy as well. In fact, among the few reasons my doors continue to be open is that the doors of other gear suppliers are closing. Two, A & J Fishing Gear and V.C. Fishing Gear, have closed completely. A third, Three Lanterns, has now shifted to recreational boating and fishing supplies.

I am before you today as an endangered species, to seek your assistance by recognizing this disaster for the purposes of the Small Business Administration. Those of us in the fishing industry want to work hard to support our families and our community, but we need your help.

Thank you for the opportunity to testify before you today and for your concern for our industry. I would like to particularly thank Congressman Torkildsen for making my appearance here today possible.

Vito J. Calomo  
Executive Director of Fisheries Commission  
Gloucester, Massachusetts  
Before the United States House of Representatives  
Committee on Small Business  
Rayburn House Office Building  
July 10, 1996

July 8, 1996

During President Clinton's first campaign to the White House, he said, "This great country of ours was formulated from small family neighborhood businesses on each corner of our great American cities and towns."

America's small neighborhood businesses have and continue to be the strength of our great economy. President Clinton has also stated that his aim as president of the United States is to return to these neighborhood small businesses and to regain an even stronger economy.

Each fishing vessel in the port of Gloucester is a small business employing three to eight fishermen per vessel. We have thousands of these vessels up and down our coast. But unlike some of our land based stores, the fishing industry generates approximately 6.6 jobs for every fisherman that goes to sea.

In Gloucester, Massachusetts, my home town and the oldest fishing port in the country, one commercial fishing vessel buys ice by the tons from the local ice company. In addition that same fishing vessel buys hundreds of gallons of fuel from local fuel companies, hundreds of dollars worth of groceries from the neighborhood grocery stores, and hundreds of dollars worth of gear from the local ship chandlers. The fishing boats will also usually spend hundreds of dollars for local service be that of engine repairs and electronic repairs.

When the vessel is finally ready to put to sea it has incurred several thousands of dollars of expenses before it has left the dock. This small business is already in the red before the engines are started. An offshore Gloucester dragger will spend an average ten days at sea. Some of the time is spent traveling and some time is spent in search of fish while the rest of the time is spent in actually fishing for fish. If successful the vessel will return with approximately 30,000 pounds of mixed groundfish. The crew will spend the day helping to unload fish to the fish plants. That vessel will again hire about six long shoremen to do the actual unloading and create more employment. The plant that the fish is sold to will hire dock workers, fish cutters, fork truck operators and truck drivers, sales personnel and brokers. The fish will then be distributed to either freezers, cold storage or to fresh fish stores. Creating still more employment for many small but life giving city businesses.

Also a fishing vessel gets hauled up on the railway or shipyard for repairs. The other small businesses that we never think about in reference to a fishing vessel are the intangible insurance businesses that service the commercial fishing vessel.

In my short report, I have named 14 small businesses whose livelihood depends directly on commercial fishing vessels. So what does this sudden closure of fishing grounds by federal governmental authority done to Massachusetts small businesses ? They have been completely caught off guard. Shut off from lending institutions. Cut off from the work force. Vessels that carried seven crew men go to sea with four. Vessels that fish with four fishermen now work with two. We in the fishing Port of Gloucester, working with Mayor Tobey and the City Council, are trying to open new markets for underutilized species such as herring, mackerel, cape shark, and menhaden, but with the sudden closures we haven't had time to refrain and retrofit our fish plants and fishing vessels. It seems like we have the plague when it comes to getting loans from banks or other lending sources for our fishing industry.

Our city and state leaders are trying to redirect industries in these coastal cities and communities, many of which depend on the tourist trade. The tourist industry, however, is not an adequate substitute due to its seasonality. In addition, many tourists are attracted to Gloucester and New Bedford, Massachusetts, to see real fishermen at work unloading their fish and mending their nets.

I guess the tourist industry is number 15. We, in the City of Gloucester, Massachusetts, are not dead, but with the sudden closures of fishing grounds our industry may die a painful death. The United States government has not given any consideration to the ramifications of so negatively impacting the many businesses that are affected by these regulations. Now with the implementation of Amendment 7 to the Northeast Fishery Management Plan the need for your assistance is greater than ever before.

The social and economic impact statement attached to Amendment 7 states that the fishing industry in many New England ports will not survive and the probability of survival for Gloucester's fishing industry is not promising. Where are the human and economic concerns for all that our fishing heritage represents ? What outcomes are federal possible are federal policy-makers considering ? It certainly isn't about we the people. Where's the plan to save the industry ? Yes, I agree something is needed to save the fish but if in the final result when the fish make their comeback (which is already happening) there won't be any fishermen from Massachusetts left with the "know-how" to harvest them. Then what has been accomplished for these many small businesses other than destruction ? These sudden measures are definitely a sudden disaster of the highest order for the fishing industry of Massachusetts.

**STAR FISHERIES**  
TWENTY SEVEN HARBOR LOOP  
GLOUCESTER, MA 01930  
508-283-0695  
FAX: 508-283-3765

July 9, 1996

Committee on Small Business  
c/o Ms. Laurie Rains  
Rayburn House Office Building  
Room B363  
Washington, D.C. 20515

Dear Committee Members:

As President of two small family-owned businesses, Star Fisheries and the Gloucester Display Auction, I am writing to express my concern regarding federal regulation affecting the fishing industry in the Commonwealth of Massachusetts. These regulations, including Amendments 5 and 7 to the Northeast Fishery Management Plan, have attempted to protect fishing stocks by, among other things, limiting the number of days boats may fish. These measures have dramatically and negatively impacted the entire fishing industry.

Small businesses are especially vulnerable to sudden changes in the marketplace created by federal regulation, as they do not possess the economic strength to withstand losses while adapting. Federal regulation must now recognize and incorporate policies which will provide assistance to small business in order to ensure the long-term viability of the fishing industry. For example, federal loan assistance and the availability of low interest loans would provide stability while allowing small business to adjust to the new economic environment.

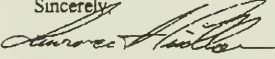
Over the past 70 years, three generations of my family have made a living in the fishing industry. During hard times the family sought to diversify its operations and the company currently includes a retail fish market as well as a small restaurant. To further adapt to the changing times, the company has embarked upon a major initiative to develop an electronic display auction in Gloucester modeled after the successful auction in Portland, Maine. The company also plans to enter global markets by becoming a processor of herring through the Gloucester Herring Corporation. Both projects will significantly add to the local economy through employment and income.

Currently, these promising initiatives are delayed due to a lack of start-up capital. Commercial lending banks are reluctant to lend money to fishing businesses. This lack of traditional financing methods underscores the significance of federal loans in assisting small business to overcome industry downturns and maintain profitability. Without immediate federal action to encourage entrepreneurship

many opportunities to revitalize the proud fishing history of Gloucester and the Commonwealth of Massachusetts may be jeopardized.

Thank you for the opportunity to provide comments on this important issue.

Sincerely,

A handwritten signature in dark ink, appearing to read "Larry Ciulla", written in a cursive style.

Larry Ciulla

LC/sg

TESTIMONY OF SECRETARY TRUDY COXE ON BEHALF OF MASSACHUSETTS  
GOVERNOR WILLIAM F. WELD BEFORE THE SUBCOMMITTEE ON GOVERNMENT  
PROGRAMS OF THE HOUSE COMMITTEE ON SMALL BUSINESS  
JULY 10, 1996

I am here today on behalf of Governor William F. Weld to urge your subcommittee's support for the Commonwealth's request to the Small Business Administration for an Economic Injury Disaster Declaration on behalf of fishermen in three Massachusetts counties. The Governor has been given no alternative but to appeal to your subcommittee because the SBA's Associate Administrator for Disaster Assistance, Bernard Kulik, in recent correspondence, denied Massachusetts' request for financial assistance in the form of subsidized loans to fishermen of Essex, Bristol, and Barnstable Counties.

I would like to read the following statement from the Governor:

"I thank the Subcommittee on Government Programs, and you, Mr. Chairman, for holding this hearing. We are grateful for your help and leadership on an issue that others in Washington seem to be ignoring. Your attention and assistance, we hope, will turn this attitude of indifference around.

We in Massachusetts continue to be disappointed by the attitude of federal officials who continue to misunderstand the plight of small fishing businesses in their quest for little more than some financial help to get them through these hard times.

On March 29, 1995 I requested a major disaster declaration from FEMA due to the decline of the Massachusetts fisheries. That request for a major disaster declaration was denied.

I appealed to FEMA to reconsider. That appeal was denied.

In January, the Commonwealth of Massachusetts requested that President Clinton review the FEMA denials. To date, we have had no response.

This past spring, Massachusetts turned to a different arm of the federal government -- the Small Business Administration -- for disaster assistance. This request was summarily denied by Mr. Kulik, an Associate Administrator at the SBA.

In the meantime, Mr. Chairman, the fisheries and the small fishing businesses of Massachusetts are hurting.

The National Marine Fisheries Service reported that 1994 landings in Massachusetts saw an 18% drop, the highest of any state in New England. In fact, for the first time in recent memory, the Commonwealth lost its position as the top revenue-producing state in the region.

The severity and magnitude of the Commonwealth's fishing crisis is such that an effective response is beyond the capabilities of one state alone, and supplemental federal assistance is necessary. The Federal Boat Buyback Program is an example of the need faced by the fishing industry in our state. Nine of the 13 vessels purchased by the federal government were Massachusetts boats, employing Massachusetts fishermen. It is also true that Federal Fisheries Relief Program provided Massachusetts with \$6.5 million. The fact is that these funds are nearly exhausted. In contrast, other states in the region have only recently started to use these relief funds.

The Weld-Cellucci Administration itself has gone to extraordinary lengths to support our fishing industry. We have supported \$ 5 million in funding for a vessel refitting loan fund in a state bond bill that authorizes funding for revitalization of the state's seaports. We are working to assist hundreds of individuals through retraining programs and crisis counseling at three family assistance centers. We continue to promote use of non-traditional species through new state marketing programs and the development of improved fishing gear through conservation engineering that will enable fishermen to fish for other species without catching groundfish in need of conservation.

More is needed. What the SBA is uniquely able to provide is an emergency working capital loan program to sustain fishermen through this difficult period. And that is why we come today to seek your help.

The severe economic loss caused by the collapse of groundfish stocks is a "natural disaster." In all of its submissions to FEMA and SBA, we have provided compelling scientific arguments describing the natural disaster aspects of the Commonwealth's fishing crisis.

The SBA, like FEMA before it, stated our fishery situation is not a disaster. It will not examine the New England groundfish collapse with an open mind and an understanding that overfishing of groundfish could easily have been the inevitable result of continued failed recruitment and fewer fish caused by the many natural factors we have described.

SBA has echoed the views of FEMA by claiming in its letter of rejection that Massachusetts' request was based on the decrease in

the supply of fish in Georges Bank and the Gulf of Maine caused primarily by overfishing and closures of these areas by the National Marine Fisheries Service.

Our request for a natural disaster declaration and assistance by FEMA and SBA acknowledges fishing mortality is important and must be controlled. Massachusetts has played a lead role in helping to develop new federal fishing regulations to rebuild cod, haddock, and yellowtail flounders.

The New England Fishery Management Council, of which Massachusetts is a leading participant, as part of its recovery program, hopes to rebuild groundfish abundance by further tightening regulations. There are timetables for fisheries closures and strategies for additional restrictions if rebuilding doesn't occur as anticipated, and it might not if natural factors continue to promote poor recruitment. These timetables and strategies are part of Amendment #7 to the Council's Multispecies Plan that was just implemented July 1.

Natural factors have played a major role in the collapse and will seriously hinder a fisheries recovery even if fishing mortality is reduced to zero. We have demonstrated that the potential for critical, improved recruitment - defined as good production of young fish, or year-classes, on which the future of the fisheries depends - is low due to natural factors. These factors have created a disaster for Massachusetts' groundfish fishing industry.

The SBA denial is particularly puzzling in light of the fact that the Commerce Secretary in 1995 (as part of declaring a fishery resource disaster) declared the "damaged condition of fishery resources beyond the control of individual fishermen" and recognized "the disappearance of periodic strong year-classes that have long sustained a healthy commercial fishery".

Even the December denial of FEMA assistance by Director Jamie Witt recognized that "a combination of natural factors", including predation, competition and general warming trend in water temperature "aggravated" the decline of groundfish stocks in the Georges Bank and the Gulf of Maine.

There is an issue of consistency in the denials of Massachusetts' requests. The federal government was willing in 1994 to declare a natural disaster on the West Coast fisheries, based on "El Nino".

Our point is that if the logic for a natural disaster declaration is appropriate for the west coast and salmon, then it should be just as appropriate for New England and especially

Massachusetts and groundfish. If an El Nino can be called a disaster, then so should the ocean conditions and other natural factors affecting groundfish abundance off Massachusetts that have created the fishery resource disaster in the northeast.

In conclusion, we continue to take every step available to assist the Commonwealth's groundfish fishing industry. I hope you will recognize our efforts and support us by agreeing to help convince the SBA that it should reconsider its decision.

I understand that the Committee is considering legislative changes to the SBA's authorities that might make the approval of natural disaster aid easier to achieve. In light of the Massachusetts experience, I would endorse such a proposal."

Thank you for allowing Governor Weld the opportunity to state his position. Your invitation to speak is greatly appreciated.

Mr. Chairman, Members of the Subcommittee and distinguished guests I thank you for the invitation and opportunity to testify before you today. My name is Cristine Heanue and I am here today representing the Massachusetts Emergency Management Agency (MEMA), to seek your committee's support for the Commonwealth's request to the Small Business Administration (SBA) for an Economic Injury Disaster Declaration on behalf of the Massachusetts Fishermen in the Counties of Essex, Bristol and Barnstable.

The Massachusetts Emergency Management Agency conducted a survey of businesses in the aforementioned counties, the results of which concluded that numerous businesses, particularly the fishing industry, suffered severe economic losses and thus require Federal Financial Assistance. Often disaster victims turn to the Federal government seeking grants to assist in their recovery efforts. The fishing communities of Essex, Bristol and Barnstable counties seek only loans provided by the Small Business Administration.

To address the needs of the Massachusetts ground fishermen the Commonwealth of Massachusetts first sought Federal assistance, through the Federal Emergency Management Agency, with a request dated March 29, 1995. Said request sought assistance in the form of a major disaster declaration for the impacted counties of Essex, Bristol and Barnstable. The request was denied by FEMA, appealed by the Governor and denied yet again. It is interesting to note however that in a letter to Governor Weld dated December 8, 1995, FEMA Director James Lee Witt stated that "the information provided in your appeal supported the logic that a combination of natural factors, including predation, competition and general warming trend in water temperature, aggravated the decline of groundfish stocks..." "We do not dispute that these natural factors have aggravated poor fishing conditions."

On April 30, 1996 on behalf of the Massachusetts Fishermen, the Commonwealth requested assistance from the Small Business Administration, specifically an Economic Injury Disaster Declaration. Said request was denied. In part, the denial was based on the fact that according to SBA Administrator Philip Lader our request did not support this particular situation being characterized a disaster within the statutory definition of such. In our opinion, ample supporting information has previously been provided to validate the position that this disaster is in fact a natural disaster. We similarly conclude that this disaster is in fact a "sudden" natural disaster.

Clearly tornados or earthquakes are deemed by all to be "sudden" natural disasters. But so too are hurricanes and floods. They are consistently referred to as sudden events when in fact they often take weeks, even months to develop. A hurricane may spend weeks becoming organized in the South Atlantic. Floods are often a combination of months of heavy rainfall and melting snow. Similarly the fishing situation has developed over time; the effect of warming water encouraging depletion by predators and other natural events is in fact no different from the developmental stages of a hurricane or a flood. After monitoring the development of a hurricane it makes landfall. After watching the rivers rise a flood occurs. After watching the gradual fishing situation progress, the fishing grounds were "suddenly" closed and other restrictions imposed, just as "sudden" as the landfall of a hurricane or a flood.

The Massachusetts Groundfish Fishing Industry has unmet emergency needs that require immediate financial assistance from the Federal government. The Commonwealth of Massachusetts has clearly recognized the need for the fishing industry to diversify and has committed untold resources to said effort; a vessel refitting loan program, crisis counseling, retraining programs, etc. This is not enough. The Fishermen need your help. The SBA assistance would provide emergency working capital enabling the fishermen the opportunity to transition into new markets and mitigation against future losses. The needs of the fishermen identified to date will only grow if left untreated. We must take steps today to mitigate against such and support the diversification efforts currently underway.

In conclusion, we must acknowledge that the disaster now confronting the Fishermen in Massachusetts is both natural and "sudden". I urge this subcommittee to intervene on behalf of the Fishermen and request that the SBA reconsider its position and provide loans to these disaster victims.

Thank you for the opportunity to share our concerns with the members of this subcommittee.

# NEW BEDFORD

## SEAFOOD COALITION

104 COOP WHARF • NEW BEDFORD, MA 02740

JIM KENDALL  
EXECUTIVE DIRECTOR

TEL: (508) 997-0013  
FAX: (508) 997-0913

July 8, 1996

### Report Submitted to

### Subcommittee on Government Programs

### House Committee on Small Business

My name is James M. Kendall and I am the Executive Director of the New Bedford Seafood Coalition. I am also Co-President of the Massachusetts Fishermen's Partnership. I am a former fisherman with 33 years of fishing experience, 16 years of which were as captain of several New Bedford fishing vessels.

Although my tenures as executive director (September 1995) and as co-president (November 1995) have been brief, let me assure you it has been an active and tumultuous period. While this maelstrom is common to the entire New England fisheries, it is to the plight of the Massachusetts' fisheries that I will address my testimony. While my past experience was focused upon the local scallop fishery of New Bedford I am now working closely with, and on behalf of other sectors of the Massachusetts fishing industry.

Both the New Bedford Seafood Coalition and the Massachusetts Fishermen's Partnership are somewhat unusual in that they both represent more than one sector of the Massachusetts fisheries. The New Bedford Seafood Coalition was formed in order to bring together the greater New Bedford fishing industry at a time when our future was in question. The Massachusetts Fishermen's Partnership was conceived for many of the same reasons, a need to unite the fishers and fishing related industries of the Commonwealth in order to help ensure their existence. As I present the situation that presently exists in New Bedford, I believe you will soon come to realize that this predicament is common throughout New England in general and Massachusetts in particular.

The New England and Mid-Atlantic fishing communities realized early on that the management programs that were being effected would be cause for hardship and tight economic times. These situations would not be new or unknown to the industry, as fishermen have always been subject to the ebb and flow of the seas. These would be different in that they were being prescribed in order that the fish stocks could and would return to a healthy status. Much as a patient realizes, that although a medicine may be terrible in the taking, it is in their best interest to hold their noses and swallow hard. Little did we know that soon the cure was about to be as bad

for our health as the illness was. For although the operation might be a success, it does us little good if we, the patient, die during it. We must not allow the operating table to become the sacrificial altar just to appease the angry gods-that-be today!

It was just prior to the implementation of Amendment 5 of the Northeast Multispecies Management plan, and Amendment 4 of the Atlantic Sea Scallop Management Plan that the fishing industry began to feel that they were about to be cast as the sacrificial lambs. After much was said about not being able to survive under the tough new regulations that were about to be put in place, we went about our business as best we could.

'As best we could,' seems to have been too good. For although some boats were forced to declare bankruptcy others found ways to minimize their costs and expenses while trying to maximize their returns. In many cases this was done by cutting back on the number of crewmen aboard the vessels, sometimes to the point of questionable safety. The duration of fishing trips and watches were lengthened in order to be more efficient. Routine repairs and routine maintenance were no longer part of the equation, and it has become the necessary repairs that might be considered, sometime soon. But we were surviving!

In order to put the time frame of the developing management regime in perspective I will present a brief outline that will show what has occurred since 1991. This is when it was decided that Amendment 5 was necessary in order to rebuild the stocks. It is the period from January 1994 to present that is of particular concern. This was due to the unprecedented haste and impact of these changes that has placed the Massachusetts fishing communities at or near the point of their own collapse!

Spring of 1991.....Council begins development of Amendment 5

Objectives: 1) Reduce mortality

a) cod and yellowtail within 5 years

b) haddock within 10 years

2) Rebuild haddock stocks by preventing an increase in directed haddock fishing

3) Improve enforcement and administration of management measures

4) To protect concentrations of sublegal size fish and reduce discard mortality

5) Limited entry to groundfish fishery

6) Reduce groundfishing time at sea by up to 50%

June 1991.....Conservation Law Foundation (CLF) files lawsuit against U.S. Department of Commerce

Spring of 1992.....Council spends nearly one year on first draft due to the broad scope of plan, and the controversy regarding many of the proposed measures and issues such as:

1) moratoriums on new permits

- 2) limits on days-at-sea (DAS) for individual vessels
- 3) significant deficiencies in the data base which was to be the foundation of the days-at-sea proposal

**Spring of 1993** ..... Council holds second round of public hearings and submits Amendment 5 to the Secretary on September 30, 1993.

**June 1993** ..... Secretary of Commerce implements emergency rules (similar to those being considered by the Council) to protect haddock and cod:

- 1) 2,500 lb. haddock possession limit
- 2) prohibition on pair trawling
- 3) expansion of Area 2 (to its current size) for the month of June

**September 30, 1993** ... Council submits Amendment 5 with a 5,000 lb. haddock possession limit which the Secretary immediately disapproved

**January 3, 1994** ..... Secretary of Commerce approves Amendment 5 and again implements emergency rules:

- 1) 500 lb. haddock possession limit
- 2) expansion of Area II and its immediate closure
- 3) ban on pair trawling
- 4) prohibition on the possession of haddock by scallop dredge vessels
- 5) prohibition of transfer of fish at sea
- 6) suspended the Area 1 closure scheduled for February 1, 1994

**March 1, 1994** ..... Amendment 5 takes effect, although some provisions are not implemented until May 1. Amendment 5 some three years in the making is already being rewritten

**June 22, 1994** ..... Amendment 6 is implemented by the Secretary, this secretarial amendment now makes the emergency actions taken earlier permanent

**August 1994** ..... At the Council meeting, the Stock Assessment Workshop (SAW) presents assessments that indicate that Georges Bank cod and yellowtail flounder are at or near the point of collapse

**September 1994** ..... Council votes to proceed with the development of a new amendment

**October 1994** ..... Council decides to recommend that the Secretary implement emergency rules to slow the decline of stocks while it developed a comprehensive rebuilding plan

**December 12, 1994** ... The Secretary implements emergency rules recommended by the Council:

- 1) Areas defined in Amendment 5 for seasonal or occasional closures (Areas I and II and the Nantucket Lightship Area) were closed to all fishing, this now included scallop dredging (of immediate concern to the fishing industry was the prohibition of transit through these areas just for the expediency of enforcement)
- 2) Prohibit all fishing with mesh smaller than the regulated minimum size except in fisheries determined by the Regional Director to have a regulated groundfish bycatch of less than 5%
- 3) Vessels in certified small-mesh fisheries were prohibited from possessing regulated species

Council, recognizing that emergency action can only be extended to a maximum of 180 days, uses framework for abbreviated rulemaking (established under Amendment 5) to make emergency rules permanent.

Council includes several changes in Framework #9 in a misguided attempt to relieve some of the economic and regulatory burden on the industry:

- 1) they now will allow transit through closed Area I and the Nantucket Lightship Area under certain provisions
- 2) The Council stated that it viewed these rules only as interim rules which could be superseded by Amendment 7

June 28-29, 1995.....At the June 28-29 meeting Council agrees on the range of options to take out to public hearings for Amendment 7. It must be noted that there was no preferred alternative for this plan when it was taken out to public hearings. Neither management nor the fishers could guess what the final plan would resemble. It was also at this time that the various fishing organizations began to put forward the argument that the fish stocks were already showing signs of recovery. The Massachusetts Fishermen's Partnership (led by the New Bedford Seafood Coalition, Offshore Mariners' Association and the Gloucester Fishermen's Wives Association) stated that the Amendment 5 should be allowed to continue and necessary adjustments could be made to address any shortcomings in the present management plan.

While it has been stated that days-at-sea was the primary management tool of Amendment 7, what began as emergency rules to expand in size and extend in time the area and duration of the closed areas, has in fact become the dominant management tool. For along with the reduction of days-at-sea to as low as 88 days a year (for fleet DAS vessels) we are faced with full-time closure of more than 50% of Georges Bank. While the days-at-sea management measure by itself remains a major restriction for the groundfish fleet, the sudden and continued closure of these areas now not only applies to the groundfish fleet, but they now include the entire scallop fleet as well.

The fact is that scallopers can and do catch groundfish, and a case might be made to show a need to prohibit them from fishing in the closed spawning areas as well as the groundfish fleet during the spawn. But, the losses sustained by the scallop industry's incidental exclusion from these areas far exceeds any impact they might cause to the regulated species once the spawning season ends. We believe this is also true for the for the groundfish fleet. If, and I say if there is a

legitimate reason that these vast amounts of area must remain closed, then perhaps we need to review the idea of rotating these areas when the spawning season concludes. What was originally done to protect the concentrations of spawning groundfish has now become the most serious impediment to the survival of the Massachusetts fishing industry. Even a fisherman can realize the benefits in protecting the vulnerable concentrations of spawning fish, but once that situation no longer exists we need to be able to access those areas so that the concentration of effort on the rest of the fishing grounds will be lessened.

During the past year, along with members of the local scallop industry and members of the scientific community I have attempted to get permission to do preliminary scallop studies within the closed areas. These efforts have been met with extreme prejudice and have been countered with either disdain or a convoluted series of quasi restrictions. The intent of these studies was to provide a baseline upon which we could measure the effects of the closures upon the scallop resource, groundfish presence, and habitat conditions and changes. It would also provide us with a unique opportunity to do research that would enable us to design and test methods in order to enhance escapement of the affected groundfish from either the traditional scallop dredge, or perhaps if needed the next generation of scallop gear. This sequence of studies would benefit by the expected increase of both groundfish and scallops that we feel we would encounter in these areas. Other than the standard NOAA surveys, a baseline to be used to measure any changes either positive or negative in these areas does not exist.

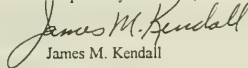
What was first implemented as a sound management effort (i.e., the protection of spawning groundfish through timed area closures) has become an unbearable hardship for us that the National Fisheries Service is loath to relent on.

Contrary to many reports most fishers do not wish to sell their boats, but these arbitrary decisions have caused added financial burdens that they can not endure. We are aware that not all will survive these difficult times while rebuilding the groundfish and scallop stocks. Yet the suddenness of these impacts seems intended to hasten the erosion of the resolve that most fishermen have to remain fishermen. While the boat-buy-back program may help some boatowners find a way to withdraw from the fisheries, it provides few answers for the rest of the industry. I am referring to the crews, and shoreside support workers such as fish lumpers, fuel suppliers, fishhouse workers, icehouses, food and gear suppliers, electrical and mechanical repairers, etc.

Much of this infrastructure has already been lost, along with nearly 100 fishing vessels from the Greater New Bedford fishing community alone! These losses are in turn serving to further undermine the economic structure of the entire Massachusetts fishing community. Much of what has taken a hundred years or more to build in place has been torn apart in a few short years.

The true disaster becomes apparent when the entire cost to the country is measured. For as every wave upon the sea eventually washes upon a shore; the ripple effects caused by these sudden events carries from the boats, to the shore, and to the people beyond.

Respectfully submitted;



James M. Kendall

Executive Director  
New Bedford Seafood Coalition



U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

Testimony of

BERNARD KULIK  
ASSOCIATE ADMINISTRATOR  
OFFICE OF DISASTER ASSISTANCE

U.S. SMALL BUSINESS ADMINISTRATION

Before

THE SUBCOMMITTEE ON GOVERNMENT PROGRAMS  
COMMITTEE ON SMALL BUSINESS  
HOUSE OF REPRESENTATIVES

July 10, 1996

Good morning, Mr. Chairman. I am Bernard Kulik, Associate Administrator for Disaster Assistance of the Small Business Administration (SBA) and I want to thank you for inviting the SBA to testify here today concerning the Commonwealth of Massachusetts' request for disaster funds from SBA. You asked that our testimony focus on the recent decision to decline to issue a disaster declaration for the Massachusetts fishing industry and we are pleased to comply.

As you know, in March 1995 Governor Weld made a request to the Federal Emergency Management Agency (FEMA) for a Presidential declaration of a major disaster for the Massachusetts fishing industry. That request was declined in July 1995 and again, on appeal, in December 1995. By letter dated April 30, 1996, which was received by the SBA on May 20, 1996, Governor Weld requested an Economic Injury Disaster Declaration on behalf of the fishermen in three Massachusetts counties pursuant to Section 7(b)(2)(D) of the Small Business Act. Administrator Philip Lader declined to issue the declaration and Governor Weld was so notified by letter dated June 3, 1996.

SBA disaster assistance in the form of long term, low interest loans, as relevant to this issue, are available only upon the declaration of a Major Disaster by the President pursuant to the Stafford Act or the declaration of a disaster by the Administrator pursuant to the Small Business Act. In the latter context, a disaster is defined in Section 3(k) of the Act as follows:

...the term "disaster" means a sudden event which causes severe damage including, but not limited to, floods, hurricanes, tornadoes, earthquakes, fires, explosions, volcanoes, windstorms, landslides or mudslides, tidal waves, ocean conditions resulting in the closure

of customary fishing waters, riots, civil disorders or other catastrophes, except it does not include economic dislocations.

The legislative history of this provision indicates, with respect particularly to the fishing industry, that it was intended to cover natural occurrences such as the "el nino" tide and that the phrase "ocean conditions resulting in the closure of customary fishing waters " was intended to cover such things as toxic algae blooms, commonly known as "red tide" or "brown tide."

In the Massachusetts instance, the disaster request was based on the issuance of emergency rules by the Secretary of Commerce as recommended by the New England Fishery Management Council, through the National Marine Fisheries Service (NMFS). The effect of these rules issued and amended in January and December 1994, April 1995 and May 1996 was to close the customary fishing areas of a substantial part of the fishing fleet based in Massachusetts. The cause for these actions was the serious depletion of the groundfish stocks (cod, haddock, yellowtail flounder) that resulted from over fishing for a number of years. This was not an unexpected or sudden occurrence. Over fishing had gone on for some time and the resulting consequences, problem and cure were known throughout that entire period. Record low catches had been reported every year since at least 1991. The Department of Commerce informed us that NMFS and the New England Fishery Management Council, which includes a representative of the Commonwealth of Massachusetts, have been considering appropriate action to eliminate the over fished condition of groundfish stocks, that is, tighter restrictions on the fishing efforts in question, for at least the past 10 years.

Therefore, there is no doubt that the fishing industry in Massachusetts was hurt by the closure of their usual fishing grounds as a result of over fishing. However, the economic suffering is not the consequence of a "sudden" event and is therefore not a disaster within the statutory definition.

In past years, the statute had contained two specific provisions for nonphysical disasters that would have covered this particular occurrence. The first of these provided for economic injury assistance in the event of "economic dislocation." This provision was repealed by the Congress in 1981. The second provided for economic injury assistance resulting from injury caused by Federal government action. This provision was repealed by the Congress in 1986. The latter provision, and perhaps the former as well, clearly would have covered the present situation.

Even if the definition of disaster had been met, it is doubtful that the federally subsidized economic injury loan program would have been of much help in this situation for two reasons. First, economic injury disaster loans (EIDL) are limited loans whose purpose is to help a small business survive through a disaster period until it can resume normal operations. EIDLs are working capital loans; they cover the ordinary and necessary expenses that the small business would have met but cannot meet as a result of the disaster. In order to make an EIDL, we must find a reasonable assurance of repayment from the operations of the business. Considering the financial condition of many of these businesses, and the indications that it will take many years for the groundfish stocks to recover, repayment ability may be questionable in this segment of the industry.

Second, a review of the testimony presented at your hearing in Massachusetts on April 10, 1995 indicates that EIDL funds are not permitted for most of the uses that are needed by the affected part of the fishing industry, such as refinancing of existing debt, upgrading a business or expanding, altering or modernizing its facilities, purchasing assets, etc. While it is inappropriate to make EIDL funds available for these purposes, funds for those purposes are available as part of SBA's regular business loans program (7(a)), which, as you know, is a bank guarantee program. In addition to the 7(a) program the 504 program, the Service Corps of Retired Executives (SCORE) and the Massachusetts Small Business Development Center are all available to help the fishing industry in Massachusetts.

Thank you, Mr. Chairman. That concludes my prepared remarks. I will be happy to answer any questions you might have.



U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

JUL 9 1996

Honorable Peter G. Torkildsen  
Chairman, Subcommittee on  
Government Programs  
Committee on Small Business  
House of Representatives  
Washington, DC 20515

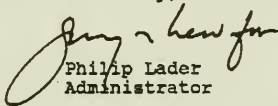
Dear Mr. Chairman:

Thank you for your letter of June 21, 1996, inviting me to testify before the Subcommittee on Government Programs of the House Small Business Committee on July 10, 1996. Specifically, I understand you want our testimony to focus on the Small Business Administration's decision to decline disaster funds for the Massachusetts fishing industry.

I have designated Bernard Kulik, Associate Administrator for Disaster Assistance, to testify at the hearing. I'm sure that he will be able to respond to any questions you may have regarding this matter.

Please let me know if I can be of further assistance.

Sincerely,

  
Philip Lader  
Administrator



COMMONWEALTH OF MASSACHUSETTS  
MASSACHUSETTS SENATE  
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Testimony of State Senator Bruce Tarr  
Massachusetts First Essex/ Middlesex District  
Before the United States House of Representative  
Committee on Small Business  
Rayburn House Office Building  
July 10, 1996

Good Morning,

Mr. Chairman, members of the committee, I am State Senator Bruce Tarr of Massachusetts. I represent the First Essex and Middlesex District which includes the oldest fishing port in our nation, the port of Gloucester. I appreciate the opportunity to appear before you today to seek assistance in the face of the tremendous socio-economic hardships which are confronting our families involved in the fishing industry.

The fishermen and women of Gloucester and New England are among the hardest working people in our country and our world. They risk their lives on a daily basis upon changeable seas and in unpredictable weather in order to provide a prime protein resource to Americans and our trade partners abroad. In fact, an entire wall in Gloucester City Hall catalogs the thousands of names of those who have perished pursuing a vocation they loved.

Yet today they face threats which are more uncertain and more changeable than the weather in New England: a rapidly changing federal regulatory scheme coupled with climatological and environmental changes for which we have no context of analysis or understanding. Having navigated the high seas for hundreds of years, our fishing families and related small businesses are foundering in these sudden and uncharted circumstances.

Each of them represents a distinct small business which is a component in the foundation of our regional economy. The large trawler represents the direct employment of 4-10 people, with smaller trawlers, gillnetters and longliners employing 1-5 people directly in fishing activity. These small businesses, however, have an additional attribute. In their similarity to manufacturing, they require numerous inputs to production which give each dollar directly earned in fishing an extremely large multiplier effect.

Thus, ice must be purchased in large quantity from the local ice company, fuel from the local fuel dealer, food from the local grocer, repairs from the local mechanic, and gear from the local gear shop. These inputs are woven into an efficient and somewhat specialized infrastructure which is an asset to our fisheries and which characterizes small business in America.

Today, a tidal wave of federal regulation in the form of Amendments 5 and 7 to the Northeast Fishery Management Plan threatens the survival of this infrastructure and the way of life it represents. Development and implementation of these

plans in rapid succession within a short time frame have left the men and women of our fishing industry with little time or ability to pursue diversification or other economic or legal recourse to the sweeping financial impairment which could well result from the situation.

During nearly every stage of plan development for Amendments 5 and 7 the fishing families of our port sought to engage the National Marine Fisheries Service (NMFS) and the New England Fishery Management Council (NEFMC) in a productive dialogue relative to balanced conservation options. This involvement led to a hope and belief that comprehensive measures would be developed which would promote the recovery of groundfish stocks and the basic survival of these many small businesses.

In the first instance of Amendment 5, a multi-faceted series of measures known as the Gloucester Plan was rejected through the course of two public hearings, public comment and subsequent discussions with NMFS and the Department of Commerce. Finally, a harsh set of regulations was adopted in order to recover groundfish stocks within 5-7 years, requiring far-reaching reductions in fishing effort. The total of these reductions was calculated to be 50% of total fishing effort on the ten multispecies species over that limited period of time.

Prior to the adoption of Amendment 5, I visited Small Business Administration (SBA) officials in Washington with a diverse delegation of fishing industry representatives from Gloucester. Understanding the problems for small business presented by the plan, SBA personnel expressed concern to the Department of Commerce on our behalf. Nonetheless, Amendment 5 proceeded and our small businesses were dealt their first strong blow.

Yet within a few months of its passage we were told, as we had predicted, that Amendment 5 could not achieve its intended results. The NEFMC and NMFS, however, attributed its ongoing failure not to the unworkable measures employed by Amendment 5, but rather to their lack of severity. The goal, we were now told, was an 80% reduction in effort. Federal regulators revealed this even as Amendment 5 had only been given months to produce the desired results.

Unlike the development of Amendment 5, the development of Amendment 7 has been marked by expedited deliberation and passage. Throughout this period, the comments of federal regulators appear to evidence an overriding fear of allowing time for more thorough analysis, scientific peer review, or the development of acceptable industry alternatives. While a perceived mandate from the Department of Commerce appears to be responsible in part for this behavior, reliance on data with as much as a three year time lag also seems to be a major factor.

In fact, the expedient and abbreviated process by which

New England fishermen by the Associated Fisheries of Maine (AFM). Among other defects, the suit alleges that SBA was not allowed proper oversight of the amendment due to NMFS failure to produce a Final Regulatory Flexibility Analysis (FRFA) as required by the Regulatory Flexibility Act. By proceeding in expedited fashion and without SBA consultation in this matter, the Department of Commerce, NMFS and the NEFMC have caused a sudden and unpredictable crisis for many small businesses in the Northeast.

Evidencing this is AFM's claim, supported by the Socio-Economic Impact Statement (SEIS) which accompanies Amendment 7, that a substantial portion of New England's off-shore fleet will not be able to break even within two years under Amendment 7. This sudden and imminent prospect of financial collapse clearly warrants the intervention and assistance of the SBA at this time.

Further, this weakening of the U.S. fishing industry has precipitated a second sudden and threatening situation beyond the control of our fishing industry. Enclosed as Appendix A herein is a press release from the New Bedford Standard Times which documents Canada's intended exploitation of the newly imposed U.S. regulatory scheme. Based on present scientific analysis, the Canadian Fisheries Resource Conservation Council (in concert with industry representatives) is moving to increase quotas for Canadian fishing vessels on George's Bank.

The devastating results of these policies are evidenced by recent landing slips of Gloucester vessels. Due to the influx into the U.S. of lower-cost Canadian groundfish, our vessels are being paid an ex-vessel market price of as little as \$.30 per pound for cod. These prices further exacerbate the financial hardship caused by the 80% reduction in fishing effort contained in Amendment 7.

Absent assistance to overcome these sudden economic and regulatory threats, the extinction of many small businesses in Gloucester and New England is not unforeseeable. Amendment 7's SEIS alone documents that probability.

There is, however, an opportunity to sustain our fishing industry and it's associated small businesses through recovery and beyond through appropriate state and federal participation. Presently, electronic fish display auctions are being planned for Gloucester and New Bedford. Gloucester's auction is being developed by Star Fisheries, a traditional fish processing operation owned and operated by the Ciulla Family for many years. They know they can't survive without change, and they know they can't change without our assistance.

Similarly, several fishing vessels and shoreside businesses have banded together to form the Gloucester Herring Corporation. By harvesting an abundant and underutilized herring resource, these small businesses will be able to survive while increasing exports and enhancing our country's balance of trade.

Finally, a group of Gloucester fishermen and shoreside small business people have banded together and committed what resources they have to the Gloucester Marine Resources Corporation. These entrepreneurs seek to construct a protein recovery plant in order to produce exportable fish meal, rich in protein and Omega-3 oils, in order to support a diversified segment of the fishing fleet which could harvest abundant herring, mackerel and menhaden. Abroad and at home, this product could be used for aquaculture and human consumption.

The Commonwealth of Massachusetts has also realized the need for economic assistance to aid its fishing industry through these challenging times. This spring, the Massachusetts Legislature passed the Seaport Bond Bill, a multi-million dollar aid package for Massachusetts fishermen for the revitalization and creation of shore-side infrastructure and facilities, the establishment of markets for underutilized species, the creation of electronic fish display auctions, and retro-fitting of fishing vessels so they may harvest underutilized fish species.

Federal regulations and a changing environment have descended upon the New England fishing industry without the sufficient warning any sailor relies upon to chart a prudent course away from dangerous conditions. Through your assistance, however, our industry can work its way to new and productive harbors of commerce which will support small businesses for years to come.

TESTIMONY OF MAYOR BRUCE TOBEY  
GLOUCESTER, MASSACHUSETTS

Chairman Torkildsen and Members of the Committee:

Thank you for this chance to be heard on the effectiveness of the fisheries assistance we have received from the Small Business Administration. Although the economy of my City has diversified dramatically in recent years, some four hundred and fifty Gloucester breadwinners still look to the fishing industry for their livelihoods.

When we think with our heads, that means Gloucester and our fishermen have taken very seriously federal promises to help the fishing industry in the aftermath of stringent federal rulemaking. The same is true when we think with our hearts -- the character and heritage of the historic Port of Gloucester are inextricably linked with our fishing industry.

One of the many federal promises we received came from the SBA -- with the promulgation of Amendment Five in 1994, what did the SBA say? They and their money were going to be there for Gloucester's fisheries. But have they put a dime on the table? No.

Now, on one hand, we need to face facts: the Gloucester fleet is generally over-capitalized as it is, and too many of our

boats are already overburdened with debt. In those cases, more debt isn't the answer.

But even where more debt is possible, SBA's existing programs, while well-intentioned, have been of little use thus far -- no matter how much our fishermen have wrestled with SBA loan programs to make them part or all of a solution, it's been a vain effort.

Against this background, I welcomed Governor Weld's initiative in seeking an Economic Injury Disaster Declaration from SBA. The Governor's request captured two realities:

- first, fishing boats are hurting in the aftermath of Amendments Five and Seven -- and, please remember, each fishing boat is a small business;
- second, run-of-the-mill SBA programs weren't doing the trick -- something more was needed.

SBA's response? a denial of the Governor's request, based on narrow legalistic interpretations of statutory definitions. Try to sell this explanation to fishermen struggling to hold on:

[t]here is no doubt that the fishing industry in Massachusetts .. is hurting as a result of the closure of their usual fishing grounds. However, that event is not a disaster within the statutory definition....

Gentlemen, they don't buy it, neither do I, and neither should you. I'm a lawyer by training and trade, and I've practiced in the public sector, so I know at least one thing: it's always easy to find a way to say "no." But that's what SBA did: once again, the SBA was unable to find a way to do what needs to be done -- give relief to fishermen living with economic disaster due to federal regulations.

Faced with this dilemma, what do I ask of you? First, that you prevail upon the SBA to reverse itself and provide the subsidized loan assistance that can keep some of our struggling fishermen afloat.

And I ask that as Mayor of a City that has already done its share. In Gloucester, we have run Economic Development Administration grants through local revolving loan funds to leverage funding for a number of valuable shoreside and vessel investment opportunities. We've even put the City's own money on the line, using funds secured by HUD section 108 guarantees, to provide more fisheries financial assistance.

What is my second request? If the SBA will not reverse itself, then I ask that you take this program away from them and give it and its money to a federal agency that will keep its promises to help our fishermen. The disaster SBA will not acknowledge is too far along -- we have no more time for the bureaucratically faint of heart.

By your leave, I would also like to address several additional concerns which reflect that there is no silver bullet solution to the problems of our fisheries. It is a solution with many parts. Let me share my sense of some of them with you.

A critical first component is more transitional federal grant aid, targetted to benefit entrepreneurs and fishermen rather than savvy grantwriters -- we preserve an industry and create jobs by creating investment pools to modernize shoreside equipment and facilities and by retrofitting vessels for entry into the sustainable harvesting of abundant but underutilized species.

Second, market development assistance is critically needed. For example, mackerel and herring stocks are strong, but domestic markets are not. Federal procurement and foreign aid programs could pick up the slack while those markets are being built.

Third, wastewater treatment considerations continue to hamper value-added fish processing -- fully 75% of the jobs which the fishing industry could produce are in processing, packaging, and marketing. But Clean Water Act discharge standards and the costs of pretreatment cripple the growth of this source of jobs.

The same federal government which mandates these pretreatment requirements must provide funding assistance to meet them, just as critically-needed Clean Water Act re-authorization should provide desperately-needed regulatory relief.

I hope these observations will assist you in your deliberations. As you go about your work on this subject -- work which we greatly appreciate -- the City of Gloucester stands ready to work with you to restore the health and economic vitality of our domestic fisheries.

Thank you for your consideration.

STATEMENT OF  
SENATOR JOHN KERRY

Before the

SUBCOMMITTEE ON GOVERNMENT PROGRAMS  
COMMITTEE ON SMALL BUSINESS  
HOUSE OF REPRESENTATIVES

JULY 10, 1996

I appreciate the opportunity to present my views to this subcommittee. As you are well aware, Mr. Chairman, the Massachusetts fishing industry is an important economic asset as well as an integral part of our New England heritage. Today, however, coastal fisheries which once appeared to be an inexhaustible natural resource, are in trouble and Massachusetts fishermen face difficult personal and financial decisions. Since the first Senate hearings on the New England groundfish crisis which I chaired in 1992, it has been apparent that the current federal fisheries management apparatus does not have the tools necessary to address the social and economic needs of fishermen who face severe stock rebuilding restrictions and increasing competition. Nor are our traditional disaster assistance programs and agriculture relief programs structured to provide the additional financial assistance which the fishermen in Massachusetts and other New England states need to allow them to either exit the industry without suffering total economic loss or carry them through the rebuilding period until they can make a sustained livelihood from fishing once again. Governor Weld's unsuccessful efforts to secure a Stafford Act disaster declaration clearly demonstrate this problem.

Nevertheless, through the efforts of the New England congressional delegation and with the help of the Clinton Administration, we have been able to provide some relief for this struggling industry. The program I originally introduced in 1992 to help with the then-pending Amendment 5 restrictions -- the Northwest Atlantic Ocean Fisheries Reinvestment program -- has provided a total of \$5.3 million in fiscal years 1994 and 1995 for promoting the development of underutilized species, for developing alternative fishing opportunities and assistance to create new economic opportunities through improved processing, and for expanding the use of fish waste. In addition, in April 1994, when I was able to identify a source of funding under the Interjurisdictional Fisheries Act, then Secretary of Commerce Ron Brown announced a \$30 million fisheries assistance package for the coastal states from New York to Maine.

In addition, you and I and other members of the delegation have worked to identify programs and funding available from existing Administration programs -- including those in the Department of Labor, the Economic Development Administration and the Department of Commerce Small Business Administration -- to mitigate the severe economic impact associated with the decline in fish stocks and the resulting strict fishing restrictions. These investments in short-term relief and long-term industry development included opening several Family Fisheries Assistance Centers to help those communities which have been hit the hardest. I and others have worked hard to ensure other resources are available to address the needs of fisheries, fishermen and their families, and fishing communities, including the Northwest Atlantic Ocean Fisheries Reinvestment Program, the Saltonstall-Kennedy Grants and Fishing Industry Grants -- which together have provided a total of over \$11 million in grants to members of the fishing, aquaculture and scientific communities; the ongoing \$25 million program to buy out fishing vessels and permits to reduce fishing effort; Economic Development Administration grants of

\$1.5 million for modernizing the Gloucester State Pier, \$10 million for establishing community revolving loan programs, and a grant for the establishment of a Massachusetts Seafood Task Force; and a Department of Labor grant for job retraining and job counseling to those fishermen who wish to pursue other livelihoods.

To date the federal government has invested over \$60 million in the New England fishing industry. This is not welfare. It is an investment in our fishing industry and our coastal communities. But more investment is needed and I pledge to continue to work with the Administration to obtain additional funding for the programs that are important to Massachusetts and the rest of New England.

Finally, I would like to point out an important opportunity to address some of the failures of the current management system. The Magnuson Fisheries Conservation and Management Act is due to be reauthorized this year, and I have authored a number of provisions in the reauthorization bill that should allow for improved management of our fisheries resources, and provide financial assistance tools needed to help our fishermen emerge from the current situation. Of particular importance, the reauthorization bill would authorize the Secretary of Commerce to: (1) make relief funds available to affected States, fishing communities, and individuals in the case of a commercial fishery failure; (2) refinance vessel mortgages, allowing an extended repayment schedule (including interest-only payments) that reflects reduced vessel income due to stock rebuilding restrictions; and (3) implement a vessel or permit buyout program if adequate steps have been taken to ensure that vessels or permits are removed permanently from a fishery and the buyouts are needed for conservation and management. The first two of these provisions are not included in the House-passed version of the bill, and I would like to enlist the assistance of my colleagues here today to ensure they are included in the final enacted bill.

In closing, I want say that it is our responsibility and duty to ensure that future generations of Massachusetts citizens have the opportunity to fish as a livelihood, if that is what they desire. I want to ensure that the waterfronts of New Bedford, Gloucester and the towns of the Cape are homes to active fishing fleets and not to abandoned fishing vessels of interest only to tourists as photograph backdrops.

Our work is just beginning. While I note our efforts to date, I do not intend to stop there. I look forward to working with the committee and all the members of the House and Senate who are concerned about these matters. Thank you.

BARNEY FRANK  
4TH DISTRICT, MASSACHUSETTS

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STATEMENT OF CONGRESSMAN BARNEY FRANK

I am pleased to submit a statement to this hearing on the plight of the fishing industry in Massachusetts. I am in strong support of aid to the fishermen, and have worked hard for some years now to provide as much support as possible from the Federal Government to fishermen who find themselves trying to continue to make a living under increasingly harsh restrictions on their ability to fish.

I am one who has strongly defended against the notion that the Federal Government has a small or even no role to play in aiding the fishermen. My consistent view is that it is a responsibility of the Federal Government to protect citizens against the vagaries of nature and to help in tough economic situations. That is especially true in the case of the fishermen, since the Federal Government played a role in helping to create the overfishing which brought us to the situation we face now. Therefore I believe strongly that there is an essential role to play for the Federal Government in helping the fishermen, and I would call attention to the disagreement I have with those elected officials who advocate fewer and fewer resources for the Federal Government to respond to the type of emergency we face in Southeastern Massachusetts.

I strongly support complete flexibility in the distribution of Federal Government resources. After successfully securing a package of direct aid from the Clinton Administration to the fishermen, in the form of Economic Development Administration money, Fishing Industry Grants, Fishing Obligation Guarantees, two vessel buyout programs, Family Assistance Centers, Saltonstall-Kennedy supplements, etc, I and other New England Members have worked very hard to make sure that the Federal Government's distribution of that money was not hampered by irrelevant or onerous restrictions. I will continue to make that case, and continue to press the Administration to provide needed resources to the fishermen through every available avenue.



U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D. C. 20416

OFFICE OF THE ADMINISTRATOR

JUL 9 1986

Honorable Peter G. Torkildsen  
Chairman, Subcommittee on  
Government Programs  
Committee on Small Business  
House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your letter of June 21, 1986, inviting me to testify before the Subcommittee on Government Programs of the House Small Business Committee on July 10, 1986. Specifically, I understand you want our testimony to focus on the Small Business Administration's decision to decline disaster funds for the Massachusetts fishing industry.

I have designated Bernard Kulik, Associate Administrator for Disaster Assistance, to testify at the hearing. I'm sure that he will be able to respond to any questions you may have regarding this matter.

Please let me know if I can be of further assistance.

Sincerely,

*Philip Lader*  
Philip Lader  
Administrator



The Commonwealth of Massachusetts  
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Comments for Small Business Hearing  
Congressman Peter Torkildsen  
From  
State Representative Anthony J. Verga  
Massachusetts House of Representatives  
Commonwealth Of Massachusetts

I am pleased and honored for the opportunity to submit comments to Congressman Peter Torkildsen and all of the distinguished members of this Congressional Committee of the Small Business Administration. Unfortunately, other commitments do not allow me to make my presentation to you in person. My duties require me in my district at this time.

There is no way I could overemphasize the importance of small business as it relates to the economy of Gloucester and the rest of Cape Ann. There is no doubt in my mind of the importance of each vessel in the Port of Gloucester is looked upon as any other individual business in the area. Prior to my election to the House of Representatives, I served for thirteen years as the Executive Director of the Gloucester Fisheries Commission. I most certainly understand and appreciate the financial hardships and challenges of operating a fishing vessel.

Understandably, these small businesses need access to the capital and technical assistance that is provided so effectively by the Small Business Administration. Unfortunately, not all of these services are available to commercial fishing vessels. By regulation, the SBA does not guarantee loans to fishing vessels under 7(A) Guarantee Program. Loan guarantees have traditionally been the responsibility of the National Marine Fisheries Service (NMFS). However, this service of capital for vessels is very limited and cannot address the needs of the entire fleet. Moreover, NMFS does not possess the same depth of experience in serving and understanding the needs of small businesses as does SBA. Finally, NMFS also has the responsibility of managing the

fisheries. This, in and of itself, is a tremendous responsibility. I would suggest that loan guarantees are better left to the small business lenders and the regulation of the fishing stocks be left to the National Marine Fisheries Service.

I would also like to draw this committee's attention to the seafood processing sector. Conventional wisdom states that the entire fishing industry is in trouble because of the depletion of traditional groundfish stocks. This is simply not true. The seafood processing sector is strong and leading the economic revitalization of the Port of Gloucester. Two growing firms are prepared to invest nearly four million dollars and relocate on the Gloucester State Pier. Other firms look forward to the development of the Blackburn Industrial Park, so they can expand without leaving Gloucester. There is an enormous foreign and domestic demand for seafood. Anyone who attended the Boson Seafood Show could see the incredible vitality of this industry.

The underutilized non-traditional species have people scurrying to position themselves for this great opportunity. Assistance is needed for vessels to be able to transfer to the fishing styles required to catch these stocks, such as herring, mackerel, and red hake as well as many other species. New equipment needs in these fisheries is costly and I believe SBA can play a significant role in the conversion of many of these vessels as well as infra-structure rehabilitation.

The SBA has already assisted a company relocate on the State Fish Pier through its 504 program. I believe the SBA can do much more for the processing sector. In particular, the SBA must do more to make its programs known to current and potential processors. Now would be the time to come to the assistance of this critical sector within the seafood industry. Without the shoreside demand generated by processors, there will never be a revitalized fishing fleet in the Port of Gloucester, nor in other ports in the Northeast. The SBA could have a pivotal role in the growth of the processing sector in cities like Gloucester, New Bedford, Portland, and Point Judith. In previous testimony, I made these recommendations. I would like to reiterate them here:

- 1) Have an outreach program specifically tailored to the needs of the processing sector.
- 2) Develop a technical assistance program to help processors understand the necessity and costs of bringing their plants up to HACCP standards.
- 3) Help new and expanding processors to develop business plans and markets through a SCORE type program that is specifically aimed at new processors.
- 4) The above connected with a program to help the conversion of vessels will stimulate a rebirth of the fishing industry.

Thank you for the opportunity to present my views.

Sincerely,

**Anthony J Verga**  
State Representative

To: Congressman Peter G. Torkildsen, Chairman  
Small Business Subcommittee on Government Programs

From: R. Scott Memhard, President & General Manager

Date: April 10, 1995

RE: SBA Assistance to the Fishing Industry  
Field Hearing, Gloucester City Hall

Thank you for the opportunity to speak. I believe our individual experience in the ice business is typical of other shoreside support to the commercial fishing industry, including wharves, processors, fuel docks and repair yards.

Cape Pond Ice is a 150 year old business that grew around the fishing in Gloucester. A year ago we went to the Small Business Administration for help. Because of tight conditions in the industry with the Amendment V fishing regulations, we needed a loan guarantee to cover the risk of a proposed bank loan. We were turned down. This dismayed us - We thought the SBA was there to help in situations like ours, where a whole industry is struggling, looking for a strategy to survive.

Some background. With fresh fish, ice is critical - the industry needs a reliable, ample supply of ice. Our harbor front plant can produce 350 tons of ice a day. We employ six year-round, and 25-30 during the peak summer season. Cape Pond Ice is an important back-up resource even for those with their own ice machines. Boats and processors have always purchased the majority of our ice.

Because of groundfish declines, our fish ice sales to this market have been way down, less than 40% of total revenue in '94. This loss has been partly offset by increased ice sales to boats fishing for herring (ice is a key requirement for underutilized species like herring, dogfish and mackerel). We have also been somewhat successful in finding other markets - like retail bagged ice, produce growers, redi-mix concrete companies and even buyers of ice sculptures - to help cover overhead costs, but these don't come close to replacing our fishing industry base.

Like many businesses, we routinely rely on bank support - loans and credit lines - to finance plant improvements, and to pay operating costs during the slow season. Although business is tight, we have a perfect loan payment record with our banks, for over ten years.

But when we applied to our local bank for a loan in the fall '93, to cover urgent plant repairs and for seasonal operating capital, they said we needed a loan guarantee from the SBA. So we applied for an SBA guarantee. And we were turned down.

We reworked our application, and re-submitted it to the SBA. And in February '94, the SBA turned us down again. In its denial letter, the SBA said it was unable to approve us for the usual business reasons: slim profits, unfavorable sales trends, inadequate working capital. Because our loan collateral is our waterfront ice plant - so-called "highly specialized" collateral - it was considered inadequate to support our loan.

The SBA told our banker (who had worked hard with us to prepare our loan guarantee application) that because of pending Federal government regulation of the commercial fishing industry, it was concerned about:

- A) The immediate future of the local fishing industry;
- B) The future of businesses like ours which depended on the fishing;, and
- C) Anticipated declines in industrial waterfront real estate value because of declines in fishing.

I cannot express how difficult a position this put us in, at Cape Pond Ice, one year ago last February. We were on the verge of shutting down, our employees out of work, and Gloucester without a large ice plant.

We did manage to survive last spring, as the boats struggled with the implementation of Amendment V. At Cape Pond Ice Company we tightened our belts, staff deferred pay and took temporary lay-offs. The owners came up with a loan to meet payroll and pay the power bill. Our bank deferred loan principal payments, and also made a small new loan.

I am proud to say that we have serviced this new debt as scheduled, and we have further re-invested in our business. 1994 turned out to be a solid year financially. Today, we are prepared be a part of Gloucester's future.

But no thanks to the government's SBA. In our case, for the time being, the private sector solved the problem on its own.

But the SBA should be an active partner, with the banking community, and other Federal, State and City resources geared to retaining and strengthening key businesses. Federal funding assistance of locally administered revolving loan funds, like the Cape Ann Commercial Fishermen's Loan Fund and the Gloucester Investment Revolving Loan Fund Corporation are good examples of practical, responsive funding mechanisms.

The fishing industry will be condemned, if its vital services are cut off, and we allow its infrastructure to be destroyed.

Thankyou.







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